

Nos. 22-55988, 22-56036

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

AL OTRO LADO, INC., *et al.*,

Pls.-Appellees/Cross-Appellants,

v.

ALEJANDRO MAYORKAS, Secretary of Homeland Security, *et al.*,

Defendants-Appellants/Cross-Appellees,

and

The EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Appellant/Cross-Appellee.

APPEAL FROM FINAL JUDGMENT OF THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

No. 17-cv-02366-BAS-KSC

**APPELLEES/CROSS-APPELLANTS' SUPPLEMENTAL EXCERPTS OF
RECORD – VOLUME 2**

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SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 42 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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From: CASTILLO, MOISES
Sent: Saturday, May 28, 2016 1:37 AM
To: HOOD, ROBERT W; AKI, SIDNEY K; MARIN, MARIZA
Subject: RE: Update

10 / 4

"Vires et Honor"

Moises Castillo
Watch Commander
San Ysidro Port of Entry
Special Response Team

From: HOOD, ROBERT W
Sent: Friday, May 27, 2016 10:33:41 PM
To: CASTILLO, MOISES; AKI, SIDNEY K; MARIN, MARIZA
Subject: RE: Update

We should hold them at the turnstile and not allow them to come into the line. We have no space and it is ugly.

From: CASTILLO, MOISES
Sent: Friday, May 27, 2016 10:07:07 PM
To: HOOD, ROBERT W; AKI, SIDNEY K; MARIN, MARIZA
Subject: RE: Update

I got a call from Chavoya. One of the shelters had issues receiving the people they took. They are returning a van full of asylees back to the limit line. They didn't give me an exact number, but they are all males.

"Vires et Honor"

Moises Castillo
Watch Commander
San Ysidro Port of Entry
Special Response Team

From: HOOD, ROBERT W
Sent: Friday, May 27, 2016 9:58:46 PM
To: AKI, SIDNEY K; CASTILLO, MOISES; MARIN, MARIZA
Subject: RE: Update

We should have the 2200 end of shift report soon.

From: AKI, SIDNEY K
Sent: Friday, May 27, 2016 9:57:31 PM
To: HOOD, ROBERT W; CASTILLO, MOISES; MARIN, MARIZA
Subject: Update

How are we doing? How many cases have we processed?

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 43 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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From: CASTILLO, MOISES
Sent: Saturday, May 28, 2016 2:13 PM
To: AKI, SIDNEY K; HOOD, ROBERT W
CC: MARIN, MARIZA
Subject: RE: SYS AEU movement and pass down for 5/27/2016 1400-2200

[REDACTED]

Consulate employees are also making donations to the shelters that are housing the people that were moved yesterday.

[REDACTED]

From: AKI, SIDNEY K
Sent: Friday, May 27, 2016 10:52 PM
To: HOOD, ROBERT W <[REDACTED]>
Cc: MARIN, MARIZA <[REDACTED]>; CASTILLO, MOISES [REDACTED]
Subject: RE: SYS AEU movement and pass down for 5/27/2016 1400-2200

We are not prepared and we told BP that we were not going this weekend.

Please guide our team to process cases and only focus on processing case at this time. Let's hold the line the best we can. Please call and muster the supervisors and focus them on the task. Thx.

From: HOOD, ROBERT W
Sent: Saturday, May 28, 2016 12:46:33 AM
To: HOOD, ROBERT W; AKI, SIDNEY K
Cc: MARIN, MARIZA; CASTILLO, MOISES
Subject: RE: SYS AEU movement and pass down for 5/27/2016 1400-2200

Sir,

[REDACTED]

Respectfully,

From: HOOD, ROBERT W
Sent: Friday, May 27, 2016 10:31:26 PM
To: AKI, SIDNEY K
Cc: MARIN, MARIZA; CASTILLO, MOISES
Subject: FW: SYS AEU movement and pass down for 5/27/2016 1400-2200

Sir,

Below are the numbers. [REDACTED]

It looks like 28 Haitians were completed and 20 VP.

From: PORTOCARRERO, WILSON
Sent: Friday, May 27, 2016 10:18:30 PM
To: SYS AEU
Subject: SYS AEU movement and pass down for 5/27/2016 1400-2200

San Ysidro AEU Detainee Movement for May 27, 2016 (1400-2200)

- (3) Detainees Transported to BK5
- (2) Detainees Paroled by CBP

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- (7) Detainees Paroled by ICE-ERO

Total movement: (12) detainees moved

Other Movement

- (14) Detainees Transported to Imperial Beach BP Station
- (15) Detainees Transported to Brownfield BP Station

Total Movement: (29) Detainees Moved

Subjects brought into AEU from PAX and Asylum line (43)

START of Shift Numbers			END of Shift Numbers	
CASA	CEU/ICE		CASA	CEU/ICE
0	0		0	0
CAI	MEX CONSUL		CAI	MEX CONSUL
0	4		0	5
BK5	HOSPITAL		BK5	HOSPITAL
61	1		61	1
OLD PORT	CELL 4		OLD PORT	CELL 4
199	1		203	0
Brown Field	Imperial Bch		Brown Field	Imperial Bch
7	0		4	12
ON SITE	ASYLUM LINE		On Site	Asylum Line
636	0		716	15

SYS CASES PROCESSED	
ER/CF	0
NTA-R	28
CUBAN	0
NTA-D	5
UAC	2
ER	0
TGIS (NEG)	0
TTRT	7
TTRT Mismatch	7
WD	0
VWR	0
VEHICLE CASE	0
TOTAL	49

Virtual Processed Cases	
Murrieta	0
San Ysidro	0
El Centro BP	3
Winterhaven OFO	2
Long Beach	3
Tecate	3
San Diego Airport	0
Ft Lauderdale	4
MIAMI	5
TOTAL	20

Turnover Notes:

- You will start with 716 detainees on-site.
- Mexico is bringing 24 asylees from their facility to be processed at 1400 hrs. so you will have 24 to start your intaking at the beginning of your shift. ****38 were actually brought into the Asylum line****
- All of the detainees were taken into AEU.
- AEU brought 15 from Otay Mesa's asylum and were taken to SYS asylum line.
- Old Port has 203 detainees plus 245 old port warehouse.
- Deaf Detainee in custody was unable to establish communication on swings. We need to determine if she can sign, and proceed from there.

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- Fraud cases were brought from Otay Mesa and have been taken into SYS AEU.
- Pending Priority TARS will need to be ready for the PA in the morning.
- Detainees transported to IMB and Brownfield BP Stations.
- Mexico will be bringing 20 Haitians to our asylum lane.
- 1 vehicle cases pending.
- 0 CTR/TGIS pending.

Previous Notes:

- 1 Japanese VWPR meet and greet emailed and confirmed with SAN. Detainee will depart on May 28, 2016.
- 1 Haitian female infant (███████████) admitted to Radys Children's Hospital. Bullets sent. STILL AT HOSPITAL.
- 2 Daily Placement schedule were created one for AEU and one for Old Port.
- Haitian (███████████) POC will call with update on bus ticket, ticket was purchased for downtown SD, will call with new time for bus ticket from SYS bus station.
- Have old port monitor closely the detainees. Several complaints from job options for restrooms.

Wilson Portocarrero
Supervisory Customs and Border Protection Officer
SD National Frontline Recruiting Command
Tactical Terrorism Response Team
Admissibility Enforcement Unit
San Ysidro Port of Entry
███████████

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 45 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

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From: CASTILLO, MOISES [REDACTED]
Sent: Sat May 28 2016 11:51:18 EDT
To: HOOD, ROBERT W [REDACTED];MARIN, MARIZA [REDACTED]
CC:
Subject: RE: Question
Attachments:
Importance: Normal
Priority: Normal
Sensitivity: None

10 / 4

Sir. Our supervisors just reassigned a supervisor that was assigned by pax Ops and he wasn't doing anything. Tovar spoke to me and Ops Chief switched him out with someone that can actually help. I will go in for a while and make sure officers are processing.

"Vires et Honor"

Moises Castillo
Watch Commander
San Ysidro Port of Entry
Special Response Team
[REDACTED]

From: HOOD, ROBERT W
Sent: Saturday, May 28, 2016 8:11:16 AM
To: CASTILLO, MOISES; MARIN, MARIZA
Subject: RE: Question

Mo/ Mariza,

I got a call late last night from Aki [REDACTED]

DP

DP

I have called the WCS and told them to not allow any asylees past the limit line at both SYS and OTM. They can line up in Mexico until we have room.

From: CASTILLO, MOISES
Sent: Saturday, May 28, 2016 7:40:51 AM
To: HOOD, ROBERT W
Subject: Question

Sir,

I'm getting numbers from AEU of how many files we have ready that haven't been picked up and also how many detainees are ready to be moved and we still have in custody.

I'm going for a quick run and if you are ok with it I will be going into work?

"Vires et Honor"

Moises Castillo
Watch Commander
San Ysidro Port of Entry
Special Response Team
[REDACTED]

Confidential

AOL-DEF-00741876

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SOUTHERN DISTRICT OF CALIFORNIA**

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Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 46 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

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Case 3:17-cv-02366-BAS-KSC Document 767-23 Filed 09/30/21 PageID.67138 Page 3 of 6

From: AKI, SIDNEY K
Sent: Saturday, May 28, 2016 7:57 PM
To: HOOD, ROBERT W; CASTILLO, MOISES; MARIN, MARIZA
Subject: RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

Agree. It would be a good symbol to the shelter/INMI to at least take a little at a time and meter it based on our capacity since they are helping us out. Let's work with Chavoya to bring a small group in per shift.

From: HOOD, ROBERT W
Sent: Saturday, May 28, 2016 6:41:53 PM
To: AKI, SIDNEY K; CASTILLO, MOISES; MARIN, MARIZA
Subject: RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

Ideally, that is what we should do. We need some breathing room.

From: AKI, SIDNEY K
Sent: Saturday, May 28, 2016 4:39:37 PM
To: HOOD, ROBERT W; CASTILLO, MOISES; MARIN, MARIZA
Subject: RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

We should coordinate and bring small groups at a time and hold the line to prevent any from entering.

From: HOOD, ROBERT W
Sent: Saturday, May 28, 2016 6:21:06 PM
To: CASTILLO, MOISES; AKI, SIDNEY K; MARIN, MARIZA
Subject: RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

This could go on for a while. When they bring the [REDACTED] from the shelter, the [REDACTED] I saw this morning, plus whatever else is arriving, we will be overcrowded.

From: CASTILLO, MOISES
Sent: Saturday, May 28, 2016 3:42:22 PM
To: AKI, SIDNEY K; MARIN, MARIZA
Cc: HOOD, ROBERT W
Subject: RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

They are working on it as we speak. They are showering the detainees before moving them to Brown Field. Supervisors are waiting for BK5 to see how many they will take from us.

On a side note, ERO Supervisor was here picking up files and he was walked to the GSA warehouse. He has been instructed by his director to have a full staff the entire weekend. He just drafted his entire shift until they finish processing the detainees that were picked up.

They will show up tomorrow for another run and take everything we have ready. They will be doing the same on Monday.

It seems that their HQ sent word that they will support our movement of detainees and won't stop until this is resolved.

"Vires et Honor"

Moises Castillo
Watch Commander
San Ysidro Port of Entry
Special Response Team
[REDACTED]

From: AKI, SIDNEY K
Sent: Saturday, May 28, 2016 3:06:07 PM
To: MARIN, MARIZA
Cc: CASTILLO, MOISES; HOOD, ROBERT W
Subject: RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

Can we move completed cases to IB, BF, and BK5 so as to make room for us?

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From: MARIN, MARIZA
Sent: Saturday, May 28, 2016 4:54:09 PM
To: AKI, SIDNEY K
Cc: CASTILLO, MOISES; HOOD, ROBERT W
Subject: FW: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

Sir, FYSA

From: CRUZ, CHRISTOPHER C
Sent: Saturday, May 28, 2016 2:51:40 PM
To: SYS AEU
Subject: RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

***AMMENDED MOVEMENT for 05/28/2016 0600-1400

San Ysidro AEU Detainee Movement for May 28 2016 (0600-1400)

- (11) Detainees transported to W-3
- (6) Mexican minors repatriated to Mexico with Mexican consul
- (1) detainee transported to SND airport for meet and greet
- (44) Detainees TOT ICE/ERO

Total movement: (62) detainees moved

In addition to the above:

(7) Transported from Brownfield Border Patrol Station to ICE ERO
(10) Transported from Imperial Beach Border Patrol Station to ICE ERO
(22) Transported from Barracks 5 to ICE ERO

Additional movement: (39) detainees moved

**Total detainees moved: (101)

Christopher C. Cruz
US Customs & Border Protection Supervisor
Admissibility Enforcement Unit
DFO Recruiter
Juvenile Outreach Team
San Ysidro Port of Entry

From: TOVAR, LORENZO G
Sent: Saturday, May 28, 2016 2:13 PM
To: SYS AEU
Subject: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

San Ysidro AEU Detainee Movement for May 28 2016 (0600-1400)

- (11) Detainees transported to W-3
- (6) Mexican minors repatriated to Mexico with Mexican consul
- (1) detainee transported to SND airport for meet and greet
- (44) Detainees TOT ICE/ERO

Total movement: (62) detainees moved

Case 3:17-cv-02366-BAS-KSC Document 767-23 Filed 09/30/21 PageID.67140 Page 5 of 6

- (0) Detainees were intake from Asylum line during shift.

START of Shift Numbers		END of Shift Numbers	
CASA	CEU/ICE	CASA	CEU/ICE
0	0	0	0
CAI	MEX CONSUL	CAI	MEX CONSUL
0	4	0	4
BK5	HOSPITAL	BK5	HOSPITAL
77	1	55	1
OLD PORT	CELL 4	OLD PORT	CELL 4
176	0	170	1
Brown Field	Imperial Bch	Brown Field	Imperial Bch
15	14	8	4
ON SITE	ASYLUM LINE	On Site	Asylum Line
724	0	796	0

SYS CASES PROCESSED	
ER/CF	10
DEFFERED	0
CUBAN	4
NTA	10
UAC	0
ER	0
TGIS (NEG)	0
TTRT	0
TTRT Mismatch	3
WD	4
VWR	0
VEHICLE CASE	2
TOTAL	33

Virtual Processed Cases	
Murrieta	0
San Ysidro	0
El Centro BP	6
Calexico	0
Ft Lauderdale	3
Long Beach	1
San Diego Airport	0
Tecate	0
Downtown-CEU/TF	0
TOTAL	10

Turnover Notes:

- You will start with 792 detainees on-site.
- You have 0 in the asylum line.
- Old Port has 170 detainees plus 245 old port warehouse.
- 1 vehicle cases pending.
- 0 CTR/TGIS pending.

Previous Notes:

- 1 Haitian female infant [REDACTED] **LE** [REDACTED] Bullets sent.
STILL AT HOSPITAL.
- 240 Haitian males out of 245 in the Old Port warehouse were enrolled in Sigma.
- 2 Daily Placement schedule were created one for AEU and one for Old Port.

Lorenzo Geno Tovar
SCBPO
SYS/OTM AEU Supervisor
[REDACTED]

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Additional counsel listed on next page
Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 52 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

July 5, 2017

MEMORANDUM FOR: Kevin K. McAleenan
Acting Commissioner
U.S. Customs and Border Protection

Scott K. Falk
Chief Counsel
U.S. Customs and Border Protection

FROM: Dana Salvano-Dunn LE
Acting Deputy Officer for Programs and Compliance
Officer for Civil Rights and Civil Liberties

Susan Mathias LE
Assistant General Counsel (Legal Counsel Division)
Office of General Counsel

SUBJECT: Declining to Inspect or Process Asylum Seekers at the San Ysidro,
Hidalgo, Reynosa, and other Ports of Entry

Complaint No. LE
Complaint No. LE

The Office for Civil Rights and Civil Liberties (CRCL) has opened several complaints alleging violations of civil rights or civil liberties resulting from Customs and Border Protection (CBP) refusing to inspect and process undocumented foreign nationals seeking asylum at the San Ysidro Port of Entry (POE) and other POEs along the U.S.-Mexico border. The purpose of this memorandum is to notify you of the complaints and describe the allegations, inform you that CRCL will retain this complaint for investigation, and explain how CRCL will work with CBP during this investigation.

ALLEGATIONS

From July 11, 2016, through April 10, 2017, CRCL received multiple allegations that CBP refused to inspect and process undocumented foreign nationals seeking asylum in the United States at several POEs along the U.S.-Mexico border.

Protected by Attorney-Client and Deliberative Process Privileges

CRCL opened complaints based upon these allegations that included the following categories of conduct: (1) that CBP refused to inspect and process, and turned away, undocumented foreign nationals seeking asylum (“asylum seekers”) at the San Ysidro POE, and other POEs along the U.S.-Mexico border; (2) that CBP directed asylum seekers to obtain a ‘ticket’ from Mexican authorities with a return interview date to be determined; (3) that CBP officers informed asylum seekers that the United States is no longer accepting asylees, including those from Mexico or who allege that they are victims of organized crime; and (4) that CBP threatened attorneys accompanying asylum seekers and separated attorneys from those individuals at the San Ysidro POE.

CRCL is aware that on June 24, 2016, the San Ysidro Admissibility Enforcement Unit (AEU) processing and holding areas were closed for construction and AEU’s operations were diverted to trailers in the Ped West facility. CRCL understands while the facility was under construction, the San Ysidro POE implemented metering for some length of time to manage the incoming traffic. Despite CBP’s assurances that the San Ysidro POE has discontinued metering, CRCL has continued to receive allegations that CBP is turning away and failing to inspect and process undocumented foreign nationals who seek asylum. Accordingly, CRCL’s investigation will review the ways in which CBP implemented, and is possibly still applying, a metering system, particularly as it concerns undocumented foreign nationals seeking asylum.

Specific complaint allegations include the following:

- Complaint Number [REDACTED] **LE** An executive at Human Rights First sent correspondence to the CBP Commissioner and DHS Deputy Secretary regarding reports that CBP turned away multiple asylum seekers at the San Ysidro POE, including those from Mexico and Haiti. The correspondent alleged that CBP officers have indicated that there are not enough CBP officers to process asylum seekers; CBP officers have told asylum seekers they cannot be processed at the San Ysidro POE; CBP officers have told asylum seekers they must return to Mexico to seek U.S. asylum; and CBP officers have told asylum seekers they must be brought in by migrant shelters in Tijuana to request protection. For example, the complaint alleged that:
 - CBP turned away a Mexican asylum seeker twice at San Ysidro and once at Otay Mesa after telling him that the United States was not accepting people for asylum.
 - CBP officers at the San Ysidro POE turned away a family of Cubans seeking protection after telling them to go to a migrant shelter in Mexico.
 - A CBP officer turned away a Guatemalan asylum seeker, telling him the United States was not giving asylum anymore.
- Complaint Number [REDACTED] **LE** [REDACTED] **LE** allegedly presented himself at the San Ysidro and Otay Mesa POEs to apply for asylum on July 11, 13, and 14, 2016. **LE** [REDACTED] alleged he was informed by CBP that CBP was not accepting any more people, and was not inspecting and processing undocumented foreign nationals seeking asylum.
- Complaint Number [REDACTED] **LE** [REDACTED] **LE** alleged that he and his fourteen-year-old son, both of whom are Guatemalan, presented themselves to

U.S. authorities and claimed asylum. [REDACTED] **LE** [REDACTED] alleged that CBP Officers told them that there was no more space for asylum seekers and that they should seek asylum in Mexico. [REDACTED] **LE** [REDACTED] alleged that the CBP officer pushed them back into Mexico.

¹ 8 U.S.C. § 1225 mandates that all aliens present in the United States who are not admitted or who arrive shall be treated as applicants for admission and, accordingly, must be inspected by immigration officers. 8 U.S.C. § 1225(a)(1),(3). If “an immigration officer determines that an alien who is arriving in the United States . . . is inadmissible . . . the officer shall order the alien removed from the United States . . . **unless** the alien indicates either an intention to apply for asylum . . . or a fear of persecution.” 8 U.S.C. § 1225(b)(1)(A)(i) (emphasis added).

- Complaint No. [REDACTED] **LE** Nicole Ramos, a U.S. licensed attorney and Project Coordinator for the Border Rights Project of Al Otro Lado, alleged that CBP Sergeant Pacheco and CBP Shift Chief Soto failed to comply with U.S. law and international legal obligations by refusing to inspect and process [REDACTED] **LE** and her three-year-old son, [REDACTED] **LE**, when they presented themselves at the San Ysidro POE to seek asylum and request a credible fear interview. [REDACTED] **LE** alleged that Chief Soto advised [REDACTED] **LE** that she would have to go to Mexican Immigration to be placed on a list and obtain a ticket; without the tickets, CBP would not process her and her son.

CRCL

CRCL Mission. CRCL supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL integrates civil rights and civil liberties into all the Department's activities:

- Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners;
- Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns;
- Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel; and,
- Leading the Department's equal employment opportunity programs and promoting workforce diversity and merit system principles.

CRCL authorities. Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL is charged with investigating and assessing complaints against DHS employees and officials of abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion. The procedures for our investigations and the recommendations they may generate are outlined in DHS Management Directive 3500.

Access to information. More particularly, 42 U.S.C. § 2000ee-1(d) grants CRCL access to the "information, material, and resources necessary to fulfill the functions" of the office, including the complaint investigation function. Management Directive 3500 further authorizes CRCL to:

- "Notify[] the relevant DHS component(s) involved of the matter and its acceptance by CRCL, and whether the matter will be handled by CRCL or by the component organization";
- "Interview[] persons and obtain[] other information deemed by CRCL to be relevant and require[e] cooperation by all agency employees"; and,

- “Access[] documents and files that may have information deemed by CRCL to be relevant.”

Reprisals forbidden. In addition, 42 U.S.C. § 2000ee-1(e) forbids any Federal employee to subject a complainant or witness to any “action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to” CRCL in the course of this investigation.

This memorandum and its accompanying request for information are issued pursuant to these authorities.

Privilege and required transparency. Our communications with CBP personnel and documents generated during this review, particularly the final report, will be protected to the maximum extent possible by attorney-client and deliberative process privileges. Under 6 U.S.C. § 345(b), however, we submit an annual report to Congress—also posted on CRCL’s website—that is required to detail “any allegations of [civil rights/civil liberties] abuses . . . and any actions taken by the Department in response to such allegations.”

We look forward to working with your staff on this matter and will report back to you our findings and recommendations.

SCOPE OF REVIEW

The purpose of our review is to determine if the factual allegations in the complaints can be verified or disproven; if the facts that we find suggest that the Constitution, a Federal statute, or Departmental policy has been violated; and what steps if any should be taken by CBP to address the complaints, both individually (if the problem is ongoing) and as a matter of policy. This review also will examine the additional areas specified above for similar concerns related to protection of civil rights and civil liberties.

QUESTIONS PRESENTED

This investigation will cover the following question(s):

1. Whether CBP conformed to DHS’s and CBP’s policies and procedures, to civil rights requirements, and to Federal and international legal obligations in processing asylum seekers.
2. Whether CBP officers at the San Ysidro POE and other specific POEs along the U.S.-Mexico border have refused to inspect and process undocumented foreign nationals seeking asylum in the United States.
3. Whether CBP officers or contractors directed asylum seekers to return to Mexico to obtain “tickets” to be processed at a future time.

4. Whether CBP officers or contractors informed asylum seekers that the United States is no longer accepting asylees, including those from Mexico, or those who claim to be victims of organized crime.
5. Whether CBP officers threatened attorneys and separated attorneys from clients seeking asylum at the San Ysidro POE.

It is possible that our investigation will reveal other matters of concern; if this occurs, we will inform you.

INITIATING THE INVESTIGATION

CRCL has taken steps to begin its investigation of these complaints, which are assigned to Senior Policy Adviser Ann Marie Shaw, and Contract Support Investigator Francine Hochberg-Giuffrida.

We request that CBP schedule an initial discussion with Ann Marie Shaw and Francine Hochberg-Giuffrida as soon as possible to discuss this complaint and our plans to review this matter. We look forward to working together to determine the facts surrounding this matter and if appropriate, the best way forward. If you have any questions, please do not hesitate to contact Ann Marie Shaw by phone at [REDACTED] or by email at [REDACTED]

[REDACTED] and Francine Hochberg-Giuffrida by phone at [REDACTED]
[REDACTED] or by email at [REDACTED]

Copies to:

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Privacy and Diversity Office
U.S. Customs and Border Protection
[REDACTED]

Jessica R. Samuel
Acting Deputy Director
Office of Professional Responsibility
U.S. Customs and Border Protection
[REDACTED]

Kristy Montes
Deputy Director, Diversity and EEO Division
Privacy and Diversity Office
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[REDACTED]

Gila Zawadzki-Phipps
Management and Program Analyst
[REDACTED]

Custody Support and Compliance Division
Privacy and Diversity Office
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Todd Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs and Border Protection
[REDACTED]

Tyesha Bordeaux
Chief of Staff
Office of Field Operations
U.S. Customs and Border Protection
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Via email:
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Enclosure[s]

Protected by Attorney-Client and Deliberative Process Privileges

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 55 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Case 3:17-cv-02366-BAS-KSC Document 767-28 Filed 09/30/21 PageID.67169 Page 3 of 5

From: WILLIAMS, JAYE M

Sent: Monday, October 31, 2016 10:37 PM

To: CHAVEZ, GLORIA I; ALLES, RANDOLPH D; CALVO, KARL H; LANDFRIED, PHIL A; BORKOWSKI, MARK S; SAHAKIAN, DIANE V; JACKSON, ADAM S; MORGAN, MARK A (USBP); VITIELLO, RONALD D (USBP); Owen, Todd C (AC OFO); YOUNG, EDWARD E; KOUMANS, MARK; GLAWE, DAVID; CASTANEDA, BELINDA C (OCC); Slocum, Louisa (OCC); GOOD, BEVERLY; PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); KLEIN, MATTHEW (OPR); YEAGER, MICHAEL

CC: WHITE, BRENDA L; JANSON, ROBERT F; KOLLER, JULIE (OCC); HANNA, RENE; QUINN, TIMOTHY; NUNEZ-NETO, BLAS; MCALLENAN, KEVIN K; TAMAYO, ENRIQUE S; MORRIS, JOHN E; FRIEL, MICHAEL J

Subject: RE: CBP CAT UPDATE: Facilities and TDY costs

Thank you for the update and cost estimates for staffing. [REDACTED]

DP

DP

Jaye M. Williams
Assistant Commissioner
Office of Finance

From: CHAVEZ, GLORIA I

Sent: Monday, October 31, 2016 9:40:53 PM

To: ALLES, RANDOLPH D; CALVO, KARL H; WILLIAMS, JAYE M; LANDFRIED, PHIL A; BORKOWSKI, MARK S; SAHAKIAN, DIANE V; JACKSON, ADAM S; MORGAN, MARK A (USBP); VITIELLO, RONALD D (USBP); Owen, Todd C (AC OFO); YOUNG, EDWARD E; KOUMANS, MARK; GLAWE, DAVID; CASTANEDA, BELINDA C (OCC); Slocum, Louisa (OCC); GOOD, BEVERLY; PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); KLEIN, MATTHEW (OPR); YEAGER, MICHAEL

Cc: WHITE, BRENDA L; JANSON, ROBERT F; KOLLER, JULIE (OCC); HANNA, RENE; QUINN, TIMOTHY; NUNEZ-NETO, BLAS; MCALLENAN, KEVIN K; TAMAYO, ENRIQUE S; MORRIS, JOHN E; FRIEL, MICHAEL J

Subject: CBP CAT UPDATE: Facilities and TDY costs

EAC Alles and all – Latest update on the facilities side for CBP. I made contact with the FEMA representative this evening and he provided a brief sitrep on where we are with the soft sided surge facility. I also spoke with Tucson leadership to get the update on the Nogales Processing Center and its status for being operational. I also connected with the Rio Grande Valley leadership on the standing up of the Weslaco Station Central Processing Center. I confirmed the status on the El Centro Processing / Detention facility in El Centro, CA.

Please see below:

FEMA Tent City:

After today's meeting at the NAC, C1 and S1 have approved moving forward with the plan to establish the infrastructure that would support [REDACTED]

DP

DP

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DP

I hope this clarifies most of the questions today, please ensure that we have a contractual rep to attend FEMA meeting tomorrow.
More updates to follow with regards to overall expenditures to provide to the Office of Finance.

DP

DP

GC

Regards,
Deputy Division Chief Gloria I. Chavez
Crisis Action Team
U.S. Customs and Border Protection
1300 Pennsylvania Avenue
Washington, DC 20229
████████
(office)
(cell)

From: MCALEENAN, KEVIN K
Sent: Sunday, October 30, 2016 9:04:06 AM
To: ALLES, RANDOLPH D; CALVO, KARL H; WILLIAMS, JAYE M; LANDFRIED, PHIL A; BORKOWSKI, MARK S; CHAVEZ, GLORIA I
Cc: WHITE, BRENDA L; JANSON, ROBERT F
Subject: RE: Facilities

EAC Alles,

I just sent a note out to the leadership team on the CAT actions. Here were the bullets I pulled as priorities for tomorrow:

- Facilities
 - *Need to implement Weslaco processing center.*
 - *Need immediate assessment of Nogales facility and ability to use for UACs and FMUAs processing/holding in short term.*
 - *Need to come to agreement on FEMA plan and funding for establishing base for scalable, soft-sided surge facility.*
 - Continue to press HHS for significant surge capacity decision.
- I would add continued work on the El Centro facility intended for Haitian processing, that you noted below, as well.

Please advise with any questions or concerns. Thank you,

KM

Case 3:17-cv-02366-BAS-KSC Document 767-28 Filed 09/30/21 PageID.67171 Page 5 of 5

From: ALLES, RANDOLPH D
Sent: Sunday, October 30, 2016 11:56 AM
To: CALVO, KARL H.; WILLIAMS, JAYE M.; LANDFRIED, PHIL A
Cc: WHITE, BRENDA L.; BORKOWSKI, MARK S.; JANSON, ROBERT F.; MCALEENAN, KEVIN K
Subject: RE: Facilities

Folks, Direction from C1 is to continue El Centro work and new task of looking at bringing the Nogales facility from 2014 back on line.

Karl, this is a OFAM lead with necessary support from CFO, Procurement & OIT. Need to know the possibilities tomorrow.

S/F
R. D. Alles [REDACTED] (Cell)

From: ALLES, RANDOLPH D
Sent: Sunday, October 30, 2016 11:47:07 AM
To: MCALEENAN, KEVIN K
Cc: WHITE, BRENDA L; CALVO, KARL H.; JANSON, ROBERT F; LANDFRIED, PHIL A; BORKOWSKI, MARK S; WILLIAMS, JAYE M
Subject: Facilities

Sir,

DP

S/F
R. D. Alles [REDACTED] Cell)

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 56 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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27 Facsimile: +1.202.742.5619

From: FLORES, PETE ROMERO
Sent: Wednesday, November 2, 2016 7:56 AM
To: Owen, Todd C (AC OFO); BROOKS, WILLIAM K; MANCHA, HECTOR; HIGGERSON, DAVID P
Cc: WAGNER, JOHN P; HOFFMAN, TODD A; GOOD, BEVERLY
Subject: RE: CBP MIGRATION CAT UPDATE 11/01/16

Thanks for the update and position direction on open items.

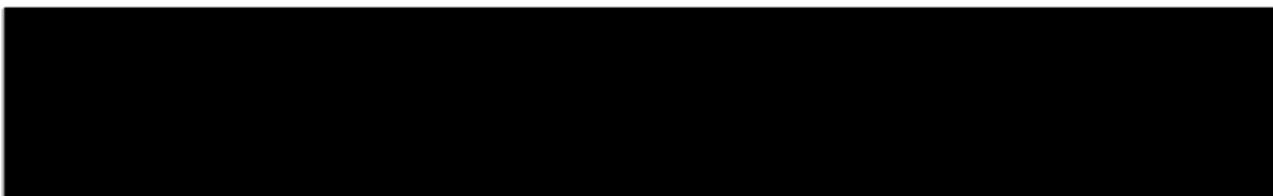
Pete

From: Owen, Todd C (AC OFO)
Sent: Wednesday, November 02, 2016 4:31:53 AM
To: FLORES, PETE ROMERO; BROOKS, WILLIAM K; MANCHA, HECTOR; HIGGERSON, DAVID P
Cc: WAGNER, JOHN P; HOFFMAN, TODD A; GOOD, BEVERLY
Subject: FW: CBP MIGRATION CAT UPDATE 11/01/16

Pete, Will, Hector, Dave,

After several frustrating weeks, we are finally seeing engagement by senior leaders at the department and in the administration on our migration and detention issues. C1 has established a single CBP crisis action team, being led by BP Chief Gloria Chavez, with Enrique Tamayo as her Deputy. Several efforts underway, from building soft sided tents in several locations in Texas and California, to foreign assistance efforts, more flights back to Haiti, and potential legal changes. Below is the end of day summary from last night, to give you a sense of what is taking place. I will forward these on to you each day so you have visibility into the ongoing discussions and actions being undertaken or considered.

A few items to highlight: (1) Disconnect within senior leadership about building soft sided tents at ports of entry or BP stations. The OFO position on this is that this is not an option for us. We lack the physical space and more importantly the sanitary items like showers and bathrooms for large scale housing in a POE. If you are approached by FEMA or others on this, our position is that we do not support.

A large rectangular area of the page is completely blacked out, indicating that the content has been redacted for privacy.

(4) Use of the Family Residential Centers at Dilley and Carnes as processing sites, moving away from ER to NTA, with the goal of cutting time in detention for FAMU from the 15 days now, to 2-3 days. We are all concerned with the pull effect this decision to almost immediately release family units would have.

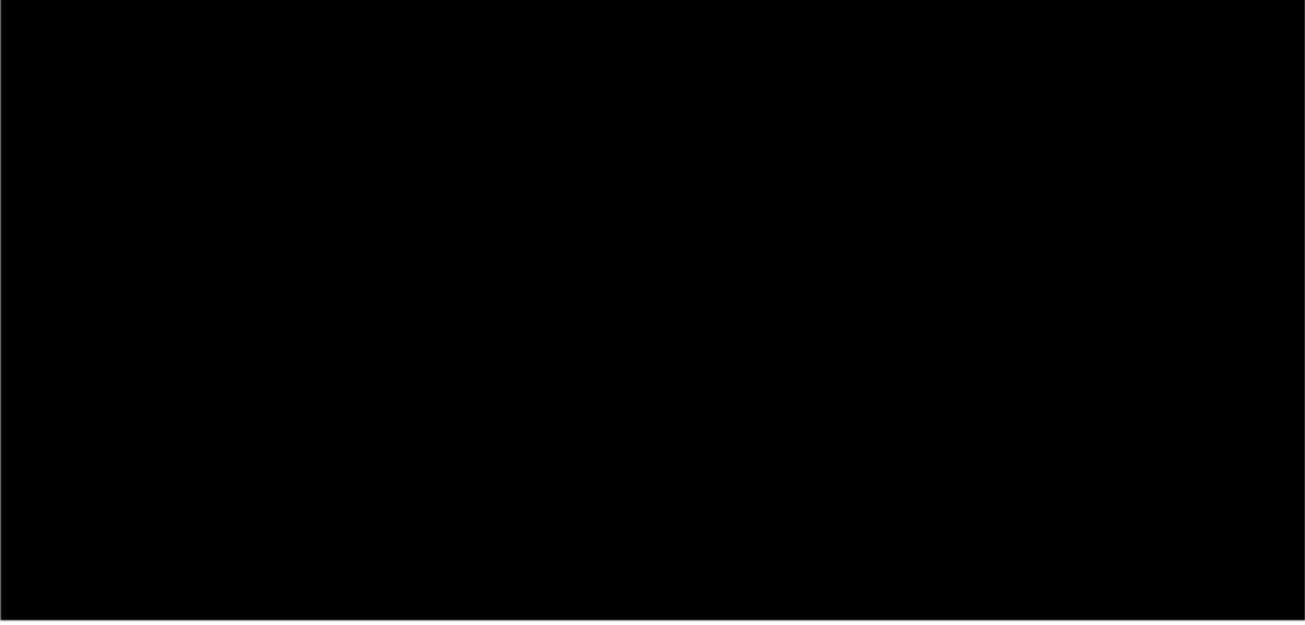
We'll be providing periodic updates. If you have any questions please let me know.

Thx.

Case 3:17-cv-02366-BAS-KSC Document 767-29 Filed 09/30/21 PageID.67175 Page 4 of 7

Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs & Border Protection

From: CHAVEZ, GLORIA I
Sent: Tuesday, November 01, 2016 7:40 PM



Subject: CBP MIGRATION CAT UPDATE 11/01/16

Deputy Commissioner and all – Both EAC Owen and I attended several migration meetings today with C1 and staff. Some of the discussions were with S1 and others and with WHT staff. We provided situational awareness to all parties on CBP's operational posture, challenges, and requirements to ease overcrowding at our CBP temporary holding facilities (POEs, BP stations – to include Ursula). Below is the daily Migration CAT update for the CBP Senior Leadership.

Planning:

- CBP Migration CAT team representatives attended DHS FEMA coordination meeting regarding UAC contingency planning.
- The objective is to support detention space build out capacity within 30-days, FEMA is exploring multiple sites; San Marcos, TX, Mission, TX, and Sharpe Army Depot near Stockton, CA.
- ICE/ERO did not attend or dial in.
- CBP expressed concerns on assuming a non-traditional role of managing detention centers, while simultaneously achieving critical border security mission essential functions.

Get backs:

- Reconvene another FEMA coordination meeting to clearly define agency and component roles and responsibilities as it relates to detention management.
- Integrate ICE/ERO into the planning and coordination process.
- Validate CBP transportation capabilities to support transportation to facilities in Texas.

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Facilities:

- CBP Migration CAT members, CBP procurement, CBP Finance, CBP OCC and others attended and participated in the discussions to narrow down the search to two locations (Moore Facility in Mission, TX or the Gary Job Corps Facility in San Marcos, TX) that could possibly meet our CBP requirements to transfer out detainees from CBP temporary holding facilities. We are working with FEMA to evaluate which of these locations is the most feasible. Thus far, the Gary Facility [REDACTED] in San Marcos, TX seems to be the one that offers the largest amount of space and the most logistical support. This facility is also located close to an airport.
- FEMA asked for CBP support to assist in housing, care, and transportation for all processed populations. CBP was the only one at the meeting, there was **NO ICE** rep in attendance. CBP advised that this was not within the scope of CBP duties to staff detention facilities.
- CBP requested that FEMA expand its focus from UACs to include FMUAs.
- This facility will house processed aliens from the CBP POEs and USBP stations to include the Ursula facility. This is a 5 hour trip one-way.
- The facility would be manned by ICE-ERO or another contract service provided by ICE.
- CBP will provide support with transportation, if required due to lack of ICE capabilities with transport.
- FEMA stated that S2 will be contacting the Dept. of Labor to get approval and secure this facility.
- Due to the contractual process, this could take up to 4 to 6 weeks before standing up the soft-sided housing facility in San Marcos, TX.

Short Term:

- CBP – RGV USBP Sector will be housing detainees in a centralized location at Ursula. Capacity for Ursula is [REDACTED] however, we have been over [REDACTED] bodies in recent weeks.
- If capacity is reached that is unmanageable at Ursula, RGV Sector will institute a process to laterally move detainees to other stations within the RGV area of responsibility.
- If capacity is reached at all stations in the RGV Sector, coordination will be done with Laredo Sector and Del Rio Sector to ease the burden of overcrowding.

NOTE: After the call with S1 today, CBP was asked to look at soft-sided housing that can be stood up at CBP locations (POEs and Stations). The CAT will begin assessing this and provide an update.

NOTE: FM&E has provided an update with regards to the Nogales Processing Center (NPC). The latest assessment is that the facilities-related requirements will be completed by November 28, 2016. Once facility is operational, USBP is offering for consideration the permanent transfer of the NPC facility to ERO for them to manage fully. This will be a discussion and decision point by CBP leadership and once concurrence is reached for engagement with ERO.

NOTE: El Centro Processing/Detention Facility will undergo a soft opening on November 14th and a full opening November 28th.

Finance:

- At the FEMA meeting, S1 had given approval to proceed with requirements as needed to support the UAC transfer process.
- CBP OF is already assessing our expected expenditures for the 1st quarter of FY17 to provide a snapshot.

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- Next steps is for the potential to outsource the humanitarian portion of the USBP work to G4S. \$60 million addition to G4S contract and a prioritization of background investigations for G4S employees.

Policy:

- [REDACTED]
- Of urgent need is ERO at the table to engage and identify their commitment and ownership on some of these areas.

ERO:

- San Antonio ERO - FOD (Daniel Bible) was directed to increase FAMU pick-ups from RGV. Target is [REDACTED] above normal rate. The CAT team will monitor.
- The El Centro Detention Facility plan was submitted for review today to ERO Phil Miller. Jaime Salazar will track from his end.
- ERO has no visibility on the IJ discussion. Jaime Salazar verbally briefed Chris Shanahan (ERO) on the concept and will provide Phil Miller the same requesting ERO feedback on the transporting piece and their role in category 5.
- ERO today executed a change in their staff line-up and are bringing up FODs from field to replace Chris Shanahan who will depart Friday and his Deputy.

COMMS:

- Consistent messaging from CBP should support the current emerging crisis which is FMUAs, UACs, and Haitians in that order. We need to be consistent across the board so that it is the same priority given by all entities. If this line-up has changed, please advise.
- Question for CBP Leadership to consider – at what point do we start messaging to external audiences since ERO are beginning to engage NGOs seeking support at other locations?

CAT DAILY STATS:

CBP (OFO/BP) Apprehensions for October 31, 2016

UAC:	280
FAMU:	691
Single:	1053
Total:	2024

CBP (OFO/BP) in Custody for October 31, 2016

UAC:	366
FAMU:	2551
Single:	1238
Total:	4165

Thank you for the support.

GC

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Regards,
Gloria I. Chavez
Deputy Division Chief
Crisis Action Team
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, Wash. D.C.

[REDACTED] (O)

[REDACTED] (C)

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Additional counsel listed on next page
Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 57 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67180 Page 2 of 11

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Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67181 Page 3 of 11

EXHIBIT

Exhibit 256 6/10/2020

exhibitsticker.com

From: HUTTON, JAMES R
Sent: Wednesday, November 2, 2016 7:25 AM
To: CHAVEZ, GLORIA I; SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; JAQUEZ, PETER; HULL, AARON A; SALAZAR, JAIME
Subject: RE: IJ and Asylum Surge

Good copy....I figured we were.

J. Ryan Hutton
Deputy Executive Director (A)
Admissibility and Passenger Programs



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From: CHAVEZ, GLORIA I
Sent: Wednesday, November 02, 2016 6:33 AM



Subject: RE: IJ and Asylum Surge

Ryan - We are tracking the same. I expressed the same at yesterday's meetings and so did EAC Owen when meeting with C1. Beverly was present during those discussions as well.

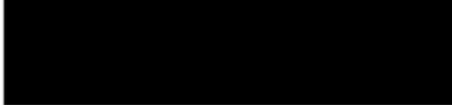


We are tracking buddy.

GC

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67182 Page 4 of 11

Gloria I. Chavez
Deputy Chief - Law Enforcement Operations
U.S. Border Patrol Headquarters
Washington D.C.



From: HUTTON, JAMES R
Sent: Wednesday, November 02, 2016 3:21:50 AM
To: CHAVEZ, GLORIA I; SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; JAQUEZ, PETER; HULL, AARON A; SALAZAR, JAIME
Subject: RE: IJ and Asylum Surge

Gloria



DP

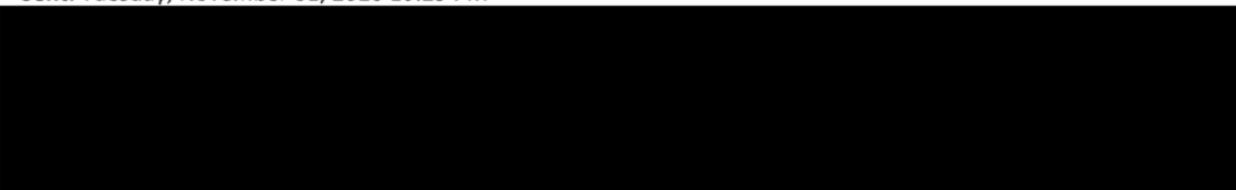
From: CHAVEZ, GLORIA I
Sent: Tuesday, November 01, 2016 10:39:19 PM
To: NUNEZ-NETO, BLAS; HANNA, RENE; KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; HUTTON, JAMES R; JAQUEZ, PETER; HULL, AARON A; SALAZAR, JAIME
Cc: QUINN, TIMOTHY
Subject: RE: IJ and Asylum Surge



DP

GC

From: NUNEZ-NETO, BLAS
Sent: Tuesday, November 01, 2016 10:29 PM



Confidential

AOL-DEF-00043576

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67183 Page 5 of 11

Subject: RE: IJ and Asylum Surge

DP

From: HANNA, RENE
Sent: Tuesday, November 01, 2016 10:20:26 PM
To: NUNEZ-NETO, BLAS; KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I; HUTTON, JAMES R
Cc: QUINN, TIMOTHY
Subject: RE: IJ and Asylum Surge

From: NUNEZ-NETO, BLAS
Sent: Tuesday, November 01, 2016 10:16:31 PM
To: HANNA, RENE; KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I; HUTTON, JAMES R
Cc: QUINN, TIMOTHY
Subject: RE: IJ and Asylum Surge

From: HANNA, RENE
Sent: Tuesday, November 01, 2016 10:06:51 PM
To: NUNEZ-NETO, BLAS; KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I
Cc: QUINN, TIMOTHY
Subject: RE: IJ and Asylum Surge

DP

Again, appreciate your work and quick turnaround very much.

Thanks,
Rene

From: NUNEZ-NETO, BLAS
Sent: Tuesday, November 01, 2016 7:14:11 PM

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67184 Page 6 of 11

To: KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I
Cc: HANNA, RENE; QUINN, TIMOTHY
Subject: RE: IJ and Asylum Surge

AC

Issue: Migration Surge along the Southwest Border

Overview:

U.S. Customs and Border Protection is currently facing a confluence of factors that are putting an already strained immigration enforcement system at risk of breaking down. These factors include:

- * Record numbers of family units, largely from Central America, appearing at the border between the ports of entry and increasingly at the ports of entry in order to claim credible fear;
- * Elevated numbers of unaccompanied children continuing to arrive at the border;
- * A surge in migration of Haitian nationals residing in Brazil;
- * An apparent spike in the number of Mexican nationals appearing at the San Ysidro port of entry in order to claim credible fear.

As of the morning of November 1, the USBP had 1,821 family units in custody, with 671 having been in CBP facilities for more than 72 hours. Over the weekend there were approximately 900 family units who were processed and awaiting pickup out of CBP temporary holding facilities at POEs and BP Stations. [REDACTED]

DP

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67185 Page 7 of 11

DP

From: KOLLER, JULIE (OCC)
Sent: Tuesday, November 01, 2016 6:46 PM

Subject: RE: IJ and Asylum Surge

AC

From: NUNEZ-NETO, BLAS
Sent: Tuesday, November 01, 2016 6:32:49 PM
To: KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I
Cc: HANNA, RENE; QUINN, TIMOTHY
Subject: RE: IJ and Asylum Surge

DP

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67186 Page 8 of 11



From: KOLLER, JULIE (OCC)
Sent: Tuesday, November 01, 2016 6:26 PM



Subject: RE: IJ and Asylum Surge



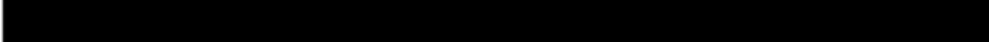
AC

From: NUNEZ-NETO, BLAS
Sent: Tuesday, November 01, 2016 5:55:17 PM
To: SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; KOLLER, JULIE (OCC)
Cc: HANNA, RENE
Subject: RE: IJ and Asylum Surge
I have some questions about the paper:



DP

From: SCHROEDER-FAWCETT, JENNIFER L
Sent: Tuesday, November 01, 2016 5:16 PM



Subject: FW: IJ and Asylum Surge

Sir,

As requested.

Jennifer Schroeder Fawcett
(A)Director
Enforcement Programs
Customs and Border Protection



Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67187 Page 9 of 11

From: SCHROEDER-FAWCETT, JENNIFER L
Sent: Tuesday, November 01, 2016 3:29:23 PM
To: HANNA, RENE
Cc: HOFFMAN, TODD A; HUTTON, JAMES R; GOOD, BEVERLY; TAMAYO, ENRIQUE S; THORNBLOOM, LINDA A; VAQUERO, ROBERTO; MANUEL CALVILLO

[REDACTED] KOLLER, JULIE (OCC);
SALAZAR, JAIME
Subject: FW: IJ and Asylum Surge
Rene;

DP and AC

Thank you,

Jennifer Schroeder Fawcett
(A)Director
Enforcement Programs
Washington, D.C. 20229

[REDACTED]

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From: HANNA, RENE
Sent: Tuesday, November 01, 2016 12:02 PM

[REDACTED]

Subject: RE: IJ and Asylum Surge

Understood. Either put holds where we need their input or please ask Jaime to coordinate today. S1 understands that this is still under development but we need to have somethings sketched out, if even CBP equities by 330pm please.

Rene N. Hanna
Deputy Chief of Staff (Policy)
Office of the Commissioner
U.S. Customs and Border Protection

[REDACTED]

From: HOFFMAN, TODD A
Sent: Tuesday, November 01, 2016 12:00 PM

[REDACTED]

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67188 Page 10 of 11



Subject: RE: IJ and Asylum Surge

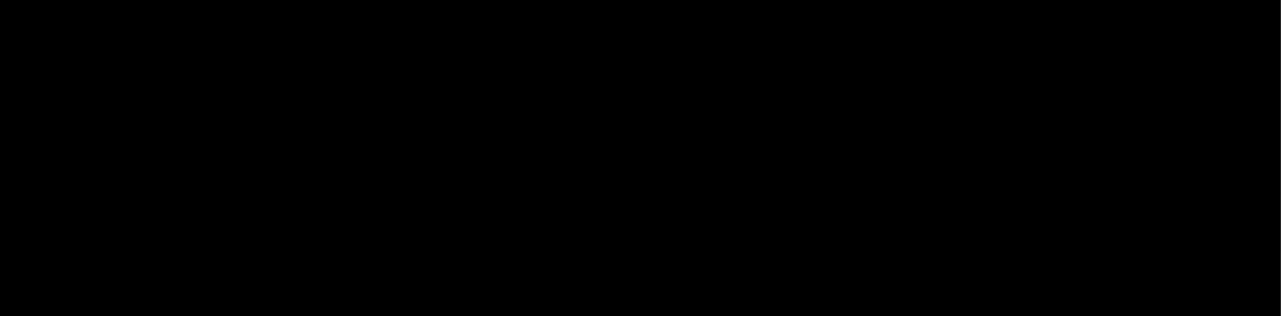
Rene,



DP

Todd A. Hoffman
Executive Director, Admissibility and Passenger Programs
Office of Field Operations
U.S. Customs and Border Protection

From: HANNA, RENE
Sent: Tuesday, November 01, 2016 11:17 AM

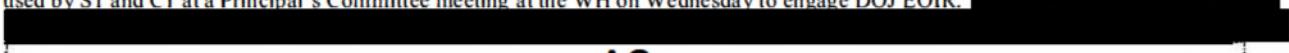


Subject: RE: IJ and Asylum Surge

All,



However, I have subsequently received guidance from DHS DCOS and COS that they want us to continue the paper. The areas we may be able to touch on are below. I welcome additional thoughts and work to advance this paper. The bottom line is that it will be used by SI and CI at a Principal's Committee meeting at the WH on Wednesday to engage DOJ EOIR.



AC



AC

I know the challenges due to everything we discussed yesterday. However, can you help fill in these sections to the best of your ability? We can raise cons in the paper so SI is aware.

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Thank you,
Rene

Rene N. Hanna
Deputy Chief of Staff (Policy)
Office of the Commissioner
U.S. Customs and Border Protection
[REDACTED]

From: SCHROEDER-FAWCETT, JENNIFER L
Sent: Monday, October 31, 2016 11:46 AM
[REDACTED]

Subject: IJ and Asylum Surge

All;

Please see attached draft updates as requested.
[REDACTED]

Jennifer Schroeder Fawcett
(A)Director
Enforcement Programs
Washington, DC, 20229
[REDACTED]

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SOUTHERN POVERTY LAW CENTER
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Additional counsel listed on next page
Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 58 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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21 AMERICAN IMMIGRATION COUNCIL
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Case 3:17-cv-02366-BAS-KSC Document 767-31 Filed 09/30/21 PageID.67192 Page 3 of 5

From: FLORES, PETE ROMERO

Sent: Wednesday, November 2, 2016 7:56 AM

To: Owen, Todd C (AC OFO); BROOKS, WILLIAM K; MANCHA, HECTOR; HIGGERSON, DAVID P

CC: WAGNER, JOHN P; HOFFMAN, TODD A; GOOD, BEVERLY

Subject: RE: CBP MIGRATION CAT UPDATE 11/01/16

Thanks for the update [REDACTED] DP

Pete

From: Owen, Todd C (AC OFO)

Sent: Wednesday, November 02, 2016 4:31:53 AM

To: FLORES, PETE ROMERO; BROOKS, WILLIAM K; MANCHA, HECTOR; HIGGERSON, DAVID P

Cc: WAGNER, JOHN P; HOFFMAN, TODD A; GOOD, BEVERLY

Subject: FW: CBP MIGRATION CAT UPDATE 11/01/16

Pete, Will, Hector, Dave,

After several frustrating weeks, we are finally seeing engagement by senior leaders at the department and in the administration on our migration and detention issues. C1 has established a single CBP crisis action team, being led by BP Chief Gloria Chavez, with Enrique Tamayo as her Deputy. Several efforts underway, from building soft sided tents in several locations in Texas and California, to foreign assistance efforts, more flights back to Haiti, and potential legal changes. Below is the end of day summary from last night, to give you a sense of what is taking place. I will forward these on to you each day so you have visibility into the ongoing discussions and actions being undertaken or considered.

A few items to highlight: [REDACTED]

DP

[REDACTED] DP

(3) S1 directed JTF-W to move forward with Operation "All In II", as a means of deterrence for human smugglers. [REDACTED] DP

[REDACTED] DP

[REDACTED] DP

We'll be providing periodic updates. If you have any questions please let me know.

Thx.

*Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs & Border Protection*

From: CHAVEZ, GLORIA I

Sent: Tuesday, November 01, 2016 7:40 PM

[REDACTED]

Case 3:17-cv-02366-BAS-KSC Document 767-31 Filed 09/30/21 PageID.67193 Page 4 of 5

Subject: CBP MIGRATION CAT UPDATE 11/01/16

Deputy Commissioner and all – Both EAC Owen and I attended several migration meetings today with C1 and staff. Some of the discussions were with S1 and others and with WHT staff. We provided situational awareness to all parties on CBP's operational posture, challenges, and requirements to ease overcrowding at our CBP temporary holding facilities (POEs, BP stations – to include Ursula). Below is the daily Migration CAT update for the CBP Senior Leadership.

DP

Case 3:17-cv-02366-BAS-KSC Document 767-31 Filed 09/30/21 PageID.67194 Page 5 of 5

DP

CAT DAILY STATS:

CBP (OFO/BP) Apprehensions for October 31, 2016

UAC:	280
FAMU:	691
Single:	1053
Total:	2024

CBP (OFO/BP) in Custody for October 31, 2016

UAC:	366
FAMU:	2551
Single:	1238
Total:	4165

Thank you for the support.
GC

Regards,
Gloria I. Chavez
Deputy Division Chief
Crisis Action Team
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, Wash. D.C.

[REDACTED]

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 59 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Case 3:17-cv-02366-BAS-KSC Document 767-32 Filed 09/30/21 PageID.67197 Page 3 of 4

From: CHAVEZ, GLORIA I**Sent:** Wednesday, November 2, 2016 7:02 PM**To:** MCALLENAN, KEVIN K; MORGAN, MARK A (USBP); Owen, Todd C (AC OFO); YOUNG, EDWARD E; ALLES, RANDOLPH D; VITIELLO, RONALD D (USBP); WILLIAMS, JAYE M; LANDFRIED, PHIL A; BORKOWSKI, MARK S; SAHAKIAN, DIANE V; JACKSON, ADAM S; KOUMANS, MARK; GLAWE, DAVID; CASTANEDA, BELINDA C (OCC); Slocum, Louisa (OCC); GOOD, BEVERLY; PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); KLEIN, MATTHEW (OPR); YEAGER, MICHAEL; HOOVER, CRINLEY S; HULL, AARON A; JAQUEZ, PETER; HUDSON, RICHARD M; CALVO, KARL H; KOLLER, JULIE (OCC); WHITE, BRENDA L; JANSON, ROBERT F; FRIEL, MICHAEL J; BRISTOW, JUSTIN A**CC:** TAMAYO, ENRIQUE S; QUINN, TIMOTHY; HANNA, RENE; NUNEZ-NETO, BLAS; MORRIS, JOHN E; KUHN, CHRISTOPHER S; FLANAGAN, PATRICK S; SALAZAR, JAIME**Subject:** RE: CBP MIGRATION CAT UPDATE 11/02/16

Deputy Commissioner and all: Today, I attended several pre-briefs with the Commissioner and a meeting at the NAC. The topics of discussion were centered around migration flow (Haitians, FMUAs, UACs, single adult males, etc.), Facilities (soft-sided tent facility) was a huge topic of the day followed by Foreign Assistance, Law Enforcement Efforts, and External Communication. One point of clarification that was decided today with C1 approval was that the FEMA soft-sided tents would be considered CBP Processing Center Facilities.

Agency Updates: Operational Operation consideration:

- CBP is actively exploring the implementation of soft-sided facilities adjacent to Ports of Entry's and Border Patrol Stations to relieve the stress of aliens in custody. Priority is being given to the POEs due to their operational footprint.
- Locations are being assessed by operational component offices for recommendation.
- To support soft-sided facilities, CBP is exploring the expansion of contract services for facilities such as medical, food service, transport, etc..
- CBP is also exploring the cost outliers for establishing an Ursula like m o pprocessing facilities.
- Short term solution (within 30 days): CBP is recommending to FEMA to proceed with a soft-sided facility at the ICE Port Isabel Detention Facility grounds in Port Isabel, TX. This would provide immediate relief to the Rio Grande Valley Sector Border Patrol stations and the Ports of Hidalgo and Brownsville, TX. The facility is located about 1 hour from McAllen, TX (Ursula) and 1 hour from Weslaco, TX (Weslaco CPC). Timeline for implementation is 7- 9 days.
- Long Term solution (30 days + implementation): Soft sided facilities that are larger are also being explored. These facilities would be stood up in either Mission [redacted] beds) and San Marcos, TX [redacted] beds). FEMA is working the required documentation and coordinating with CBP.
- Each facility will be a temporary holding facility and managed by a small cadre of CBP officers/agents and a large footprint of contract personnel until custodial transfer is completed.

Resources/Facilities/Finance:

- To support the expansion of E3 case processing in South Texas, U.S. Border Patrol will temporarily assign [redacted] agents to RGV.
- This station will serve as a E3 processing station, and aliens processed there will be relocated to Ursula or soft-sided facilities until custodial transfer can be completed.
- RFI sent to RGV w a s s u befenericethe Ursula footprint/model as a template for additional locations requirements.
- The Nogales Processing Station is also being considered as an overflow site that will be ready later in November.
 - USBP and the Office of Procurement, continues to complete the milestones for this week, focusing on formalizing required procurement documents. OFAM will be finalizing the statements of work to cover construction, rentals and janitorial service by Friday, November 4, 2016. The period of performance will be a 3 month base with 3 month options.
- The El Centro Processing Center is scheduled for a soft opening November 14th and a hard opening November 28th.
- El Centro will support the Calexico port of entry with processing single adult Haitians.
- All Haitians will be processed for expedited removal and immediately turned over to ICE/ERO.
- OF is currently working with the CBP CAT to cost out the operational expense profile for the migration surge including TOY, overtime, processing facilities, transportation and contracts to support the humanitarian efforts
- OF continues to engage with OHS and OMB regarding potential funding requirements to ensure funding availability during a continuing resolution

OGA Coordination:

- Weekly UCG Teleconference:
- ORR is currently at 86% capacity (75% if the reserve beds are included)
- The ORR Homestead facility is currently holding [redacted] with a total capacity of [redacted]. During hurricane season they limit the bed space to [redacted] due to the evacuation protocols.
- Fort Bliss is at [redacted]. The capacity is [redacted]. ORR tries to maintain Fort Bliss at maximum occupancy.
- The addition of semi-permanent facilities at Fort Bliss have been approved by DOD and is under review.
- HHS and FEMA are pursuing to activate Sharp Army Depot if needed. Although DOD concurs, the Sharpe Army Depot is approximately 450 miles north of San Ysidro, CA (7 hour drive time)

ERO:

- CBP CAT working with CBP CRCL to provide ERO a list of NGOs to work with and expand assistance footprint with FMUAs.

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- CBP CAT Liaison to ERO will be participating in telecon with Lutheran Immigration services tomorrow who will be proposing additional NGO support in the Houston, Texas area. It is anticipated that 300-500 proposed beds and ERO would provide transport.

Thank you.
GC

Regards,
Gloria I. Chavez
Deputy Division Chief
Crisis Action Team
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, Wash. D.C.



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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

Y.

Chad F. Wolf,¹ *et al.*,

**EXHIBIT 61 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Case 3:17-cv-02366-BAS-KSC Document 767-34 Filed 09/30/21 PageID.67208 Page 3 of 7

From: MCKINNIS, FRANK H (OCC)
Sent: Wednesday, November 16, 2016 11:09 AM
To: LONGORIA, FRANK S; CEREZO-SUAREZ, CARLOS
Subject: FW: CBP MIGRATION CAT - COB 11/04/16

AC

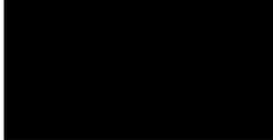
From: MCKINNIS, FRANK H (OCC)
Sent: Tuesday, November 15, 2016 6:30:50 PM
To: KOLLER, JULIE (OCC)
Cc: COLREY, MARC BENNETT (OCC); Slocum, Louisa (OCC); CASTANEDA, BELINDA C (OCC); HUMPHRIES, ROBERT H (OCC); MERCER, MEREDITH L (OCC); MCCRANIE, MITCH (OCC); HUMPHRIES, ROBERT H (OCC); MCKINNIS, FRANK H (OCC)
Subject: RE: CBP MIGRATION CAT - COB 11/04/16

AC

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AC

Frank H. McKinnis, III
Assistant Chief Counsel, Laredo
U.S. Customs and Border Protection



Confidential

AOL-DEF-00904528

Case 3:17-cv-02366-BAS-KSC Document 767-34 Filed 09/30/21 PageID.67210 Page 5 of 7

From: KOLLER, JULIE (OCC)
Sent: Saturday, November 05, 2016 8:41 AM



Subject: FW: CBP MIGRATION CAT - COB 11/04/16

AC

ont

AC

ly

From: CHAVEZ, GLORIA I

Sent: Friday, November 04, 2016 7:16:17 PM

To: MCALEENAN, KEVIN K; MORGAN, MARK A (USBP); Owen, Todd C (AC OFO); SMITH, BRENDA BROCKMAN; YOUNG, EDWARD E; ALLES, RANDOLPH D; VITIELLO, RONALD D (USBP); WILLIAMS, JAYE M; LANDFRIED, PHIL A; BORKOWSKI, MARK S; SAHAKIAN, DIANE V; JACKSON, ADAM S; KOUMANS, MARK; GLAWE, DAVID; CASTANEDA, BELINDA C (OCC); Slocum, Louisa (OCC); GOOD, BEVERLY; PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); KLEIN, MATTHEW (OPR); YEAGER, MICHAEL; HOOVER, CRINLEY S; HULL, AARON A; JAQUEZ, PETER; HUDSON, RICHARD M; CALVO, KARL H; KOLLER, JULIE (OCC); WHITE, BRENDA L; JANSON, ROBERT F; FRIEL, MICHAEL J; BRISTOW, JUSTIN A; BURKE, JENNY L; BP Field Chiefs; BROOKS, WILLIAM K; BOYCE, MARIA L; HIGGESSON, DAVID P; FLORES, PETE ROMERO; MANCHA, HECTOR; WEBB, BENJAMIN E; DUTCH, FRANCIS; HEAVY, BRENDAN P.

Cc: QUINN, TIMOTHY; HANNA, RENE; NUNEZ-NETO, BLAS; FLANAGAN, PATRICK S; SALAZAR, JAIME; VISCONTI, JAY; CBP-CAT

Subject: RE: CBP MIGRATION CAT - COB 11/04/16

Deputy Commissioner and all – Please see the below end of day report for the CBP Migration Crisis Action Team (CAT) for your situational awareness.

J1-ADMINISTRATION:

- Tracking Battle Rhythm and Daily Reports on Web EOC.
- Compiled and drafted reports for CBP CAT Team.
- Notified offices for daily updates on Migration activities for reporting purposes.
- CAT Presentation completed for Senior Management Council Presentation.

J2-INTELLIGENCE:

- 2 Hatiian subjects were processed and interviewed at the Bota POE in El Paso, Texas. They stated that they had gone eastbound because they heard it was easier to go through the process.
- CBP CAT requested a questionnaire from OI to send the field .

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- OI is developing a trend analysis of all admissibles with focus on Haitians.

J3 OPS:

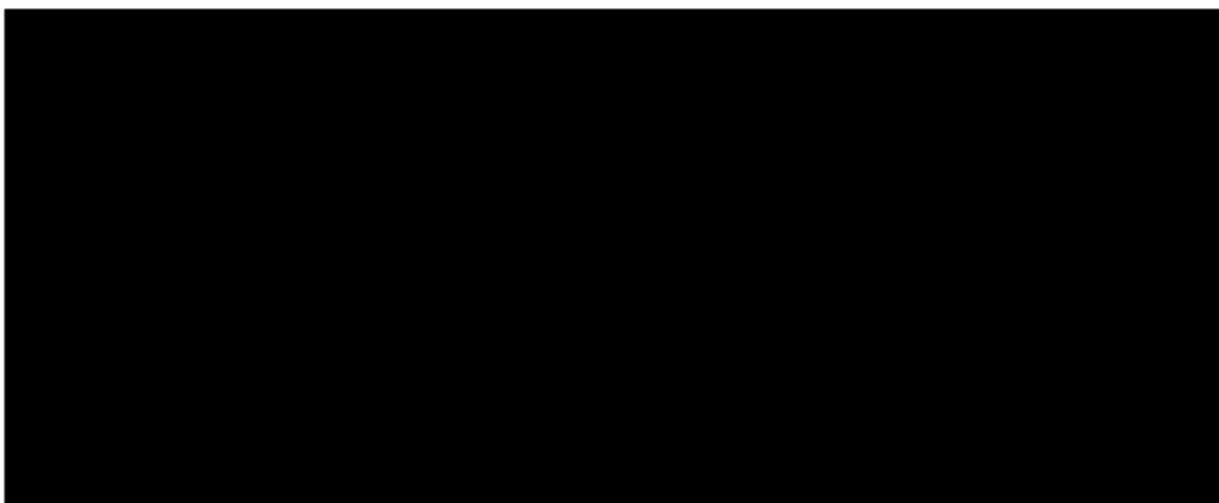
- Attended planning meeting with FEMA to establish a unified plan to create a soft-sided facility utilizing FEMA contractors.
- The CBP-CAT in coordination with the CBP Office of Facilities and Management (OFAM) discussed the feasibility of establishing soft-sided facilities in San Marcos, TX.
- In anticipation, the CBP-CAT is actively developing contingency “off-the-shelf” planning in coordination with OFAM and CBP Budget to quickly implement the soft-side option.
 - CAT identified the requirements to Procurement, FM&E, BP Logistics, OFO Facilities to develop a standardized plan to utilize a 500 person soft-sided facility template (blocks) to establish temporary facilities as needed for overflow.
- Conference call with Laguna Niguel to discuss the expansion of the janitorial contract at the El Centro facility.

J4 LOGISTICS:

- Nogales Processing Center: OFAM, in coordination with USBP and the Office of Procurement, continues to complete the milestones for this week, focusing on formalizing required procurement documents. OFAM will continue to coordinate requirements with USBP and work closely with the Office of Procurement to meet the facilities-related requirements by 11/28/2016.
- El Centro ICF Facility: Rental furniture confirmed for 11/9. Permanent furniture will be delivered no later than 12/23/16. OFAM plans site visit on 11/8 to confirm deep cleaning and CCTV repairs with ICE. Still on track for 11/14 soft opening (OFO dry run operations) and 11/28 Go Live date.
- Possible soft-sided processing facilities at CBP sites (for short term response - 7-9 day): FEMA will not make their contract available to CBP; therefore, OFAM is working with Procurement for CBP to pursue a contract for erecting temporary, soft-sided processing structures at CBP sites. OFAM facility SMEs are working with OFO and USBP on the currently targeted CBP locations, and OFAM is working with GSA to discuss the LPOE sites because they are owned or leased by GSA.

J5 PLANNING:

Through DHS led coordination efforts the following are the strategic phases for addressing the surge of migration along the Southwest border:



J6-COMMUNICATIONS:

- Assisted in facilitating statistics on Haitian counts at ports of entry and between ports of entry.
- Continue to facilitate reporting requirements.
- Planned for weekend reporting.

J7-TRAINING:

- No updates.

J8-FINANCE:

- OF is currently working with the CBP CAT to cost out the operational expense profile for the migration surge including TDY, overtime, processing facilities, transportation and contracts to support the humanitarian efforts.
- OF continues to engage with DHS and OMB regarding potential funding requirements to ensure funding availability during a continuing resolution.
- Contracting out caretaking functions (G4S) – Donna Twyford has lead.

J9-LIAISON:

- 200 additional cots to Sister Norma at her request/from FEMA working out specifics on delivery.
- City of McAllen will set up a new tent with Sister Norma this evening and through the weekend that will take an additional 270 FAMU.
- ERO working on “internal” flow increase and additional output from CPC within 1-2 days. They have increased based on

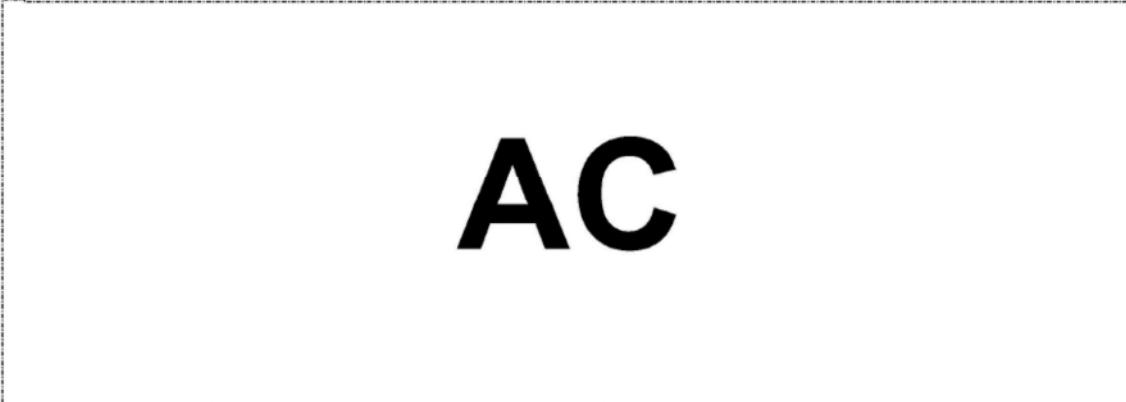
Case 3:17-cv-02366-BAS-KSC Document 767-34 Filed 09/30/21 PageID.67212 Page 7 of 7

number by 100-200 day in the past few days.

- Call set up with VTC GM by HQ ERO to see if he can increase busses out of McAllen consistent with City and NGO flow.
- ERO CAT Team is operational FOD Tom Decker is running it.

NOTE: OCC


AC



AC

NOTE: OFO - XD Beverly Good:

- El Paso City Emergency Services offered the Tigua Indian recreation center for overflow use.
- The Recreation Center has restrooms, and showers. XD Good has an issue paper and photos available.

NOTE: OPA:

Legal Migration Campaign will begin soon with TV and radio commercials.

Apprehensions				In Custody					
	UAC	FMUA	SINGLE	TOTALS		UAC	FMUA	SINGLE	TOTALS
USBP	207	457	781	1445	USBP	420	1505	1555	3480
OFO	62	314	234	610	OFO	90	805	451	1346
Total:	269	771	1015	2055	Total:	510	2310	2006	4826

GC

Regards,
 Gloria I. Chavez
 Crisis Action Team
 U.S. Customs and Border Protection
 1300 Pennsylvania Avenue, Wash. D.C.



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27 **UNITED STATES DISTRICT COURT**
28 **SOUTHERN DISTRICT OF CALIFORNIA**

29 Al Otro Lado, Inc., *et al.*,

30 Case No.: 17-cv-02366-BAS-KSC

31 Plaintiffs,

32 v.

33 Chad F. Wolf,⁶² *et al.*,

34 Defendants.

35 **EXHIBIT 63 IN SUPPORT OF**
36 **PLAINTIFFS' MEMORANDUM OF**
37 **POINTS AND AUTHORITIES IN**
38 **SUPPORT OF THEIR MOTION**
39 **FOR SUMMARY JUDGMENT**

40

⁶² Acting Secretary Wolf is automatically substituted for former Acting Secretary
41 McAleenan pursuant to Fed. R. Civ. P. 25(d).

Case 3:17-cv-02366-BAS-KSC Document 535-65 Filed 09/04/20 PageID.48136 Page 2 of 7

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Donald Trump Is Elected President in Stunning Repudiation of the Establishment

By Matt Flegenheimer and Michael Barbaro

Nov. 9, 2016

EXHIBIT

325

Donald John Trump was elected the 45th president of the United States on Tuesday in a stunning culmination of an explosive, populist and polarizing campaign that took relentless aim at the institutions and long-held ideals of American democracy.

The surprise outcome, defying late polls that showed Hillary Clinton with a modest but persistent edge, threatened convulsions throughout the country and the world, where skeptics had watched with alarm as Mr. Trump's unvarnished overtures to disillusioned voters took hold.

The triumph for Mr. Trump, 70, a real estate developer-turned-reality television star with no government experience, was a powerful rejection of the establishment forces that had assembled against him, from the world of business to government, and the consensus they had forged on everything from trade to immigration.

The results amounted to a repudiation, not only of Mrs. Clinton, but of President Obama, whose legacy is suddenly imperiled. And it was a decisive demonstration of power by a largely overlooked coalition of mostly blue-collar white and working-class voters who felt that the promise of the United States had slipped their grasp amid decades of globalization and multiculturalism.

In Mr. Trump, a thrice-married Manhattanite who lives in a marble-wrapped three-story penthouse apartment on Fifth Avenue, they found an improbable champion.

"The forgotten men and women of our country will be forgotten no longer," Mr. Trump told supporters around 3 a.m. on Wednesday at a rally in New York City, just after Mrs. Clinton called to concede.

In a departure from a blistering campaign in which he repeatedly stoked division, Mr. Trump sought to do something he had conspicuously avoided as a candidate: Appeal for unity.

"Now it's time for America to bind the wounds of division," he said. "It is time for us to come together as one united people. It's time."

That, he added, "is so important to me."

He offered unusually warm words for Mrs. Clinton, who he has suggested should be in jail, saying she was owed "a major debt of gratitude for her service to our country."

Bolstered by Mr. Trump's strong showing, Republicans retained control of the Senate. Only one Republican-controlled seat, in Illinois, fell to Democrats early in the evening. And Senator Richard Burr of North Carolina, a Republican, easily won re-election in a race that had been among the country's most competitive. A handful of other Republican incumbents facing difficult races were running better than expected.

Mr. Trump's win — stretching across the battleground states of Florida, North Carolina, Ohio and Pennsylvania — seemed likely to set off financial jitters and immediate unease among international allies, many of which were startled when Mr. Trump in his campaign cast doubt on the necessity of America's military commitments abroad and its allegiance to international economic partnerships.

From the moment he entered the campaign, with a shocking set of claims that Mexican immigrants were rapists and criminals, Mr. Trump was widely underestimated as a candidate, first by his opponents for the Republican nomination and later by Mrs. Clinton, his Democratic rival. His rise was largely missed by polling organizations and data analysts. And an air of improbability trailed his campaign, to the detriment of those who dismissed his angry message, his improvisational style and his appeal to disillusioned voters.

He suggested remedies that raised questions of constitutionality, like a ban on Muslims entering the United States.

He threatened opponents, promising lawsuits against news organizations that covered him critically and women who accused him of sexual assault. At times, he simply lied.

But Mr. Trump's unfiltered rallies and unshakable self-regard attracted a zealous following, fusing unsubtle identity politics with an economic populism that often defied party doctrine.

His rallies — furious, entertaining, heavy on name-calling and nationalist overtones — became the nexus of a political movement, with daily promises of sweeping victory, in the election and otherwise, and an insistence that the country's political machinery was "rigged" against Mr. Trump and those who admired him.

He seemed to embody the success and grandeur that so many of his followers felt was missing from their own lives — and from the country itself. And he scoffed at the poll-driven word-parsing ways of modern politics, calling them a waste of time and money. Instead, he relied on his gut.

At his victory party at the New York Hilton Midtown, where a raucous crowd indulged in a cash bar and wore hats bearing his ubiquitous campaign slogan “Make America Great Again,” voters expressed gratification that their voices had, at last, been heard.

“He was talking to people who weren’t being spoken to,” said Joseph Gravagna, 37, a marketing company owner from Rockland County, N.Y. “That’s how I knew he was going to win.”

For Mrs. Clinton, the defeat signaled an astonishing end to a political dynasty that has colored Democratic politics for a generation. Eight years after losing to President Obama in the Democratic primary — and 16 years after leaving the White House for the United States Senate, as President Bill Clinton exited office — she had seemed positioned to carry on two legacies: her husband’s and the president’s.

Her shocking loss was a devastating turn for the sprawling world of Clinton aides and strategists who believed they had built an electoral machine that would swamp Mr. Trump’s ragtag band of loyal operatives and family members, many of whom had no experience running a national campaign.

On Tuesday night, stricken Clinton aides who believed that Mr. Trump had no mathematical path to victory, anxiously paced the Jacob K. Javits Convention Center as states in which they were confident of victory, like Florida and North Carolina, either fell to Mr. Trump or seemed in danger of tipping his way.

Mrs. Clinton watched the grim results roll in from a suite at the nearby Peninsula Hotel, surrounded by her family, friends and advisers who had the day before celebrated her candidacy with a champagne toast on her campaign plane.

But over and over, Mrs. Clinton’s weaknesses as a candidate were exposed. She failed to excite voters hungry for change. She struggled to build trust with Americans who were baffled by her decision to use a private email server as secretary of state. And she strained to make a persuasive case for herself as a champion of the economically downtrodden after delivering perfunctory paid speeches that earned her millions of dollars.

The returns Tuesday also amounted to a historic rebuke of the Democratic Party from the white blue-collar voters who had formed the party base from the presidency of Franklin D. Roosevelt to Mr. Clinton’s. Yet Mrs. Clinton and her advisers had taken for granted that states like Michigan and Wisconsin would stick with a Democratic nominee, and that she could repeat Mr. Obama’s strategy of mobilizing the party’s ascendant liberal coalition rather than pursuing a more moderate course like her husband did 24 years ago.

But not until these voters were offered a Republican who ran as an unapologetic populist, railing against foreign trade deals and illegal immigration, did they move so drastically away from their ancestral political home.

To the surprise of many on the left, white voters who had helped elect the nation's first black president, appeared more reluctant to line up behind a white woman.

From Pennsylvania to Wisconsin, industrial towns once full of union voters who for decades offered their votes to Democratic presidential candidates, even in the party's lean years, shifted to Mr. Trump's Republican Party. One county in the Mahoning Valley of Ohio, Trumbull, went to Mr. Trump by a six-point margin. Four years ago, Mr. Obama won there by 22 points.

Mrs. Clinton's loss was especially crushing to millions who had cheered her march toward history as, they hoped, the nation's first female president. For supporters, the election often felt like a referendum on gender progress: an opportunity to elevate a woman to the nation's top job and to repudiate a man whose remarkably boorish behavior toward women had assumed center stage during much of the campaign.

Mr. Trump boasted, in a 2005 video released last month, about using his public profile to commit sexual assault. He suggested that female political rivals lacked a presidential "look." He ranked women on a scale of one to 10, even holding forth on the desirability of his own daughter — the kind of throwback male behavior that many in the country assumed would disqualify a candidate for high office.

On Tuesday, the public's verdict was rendered.

Uncertainty abounds as Mr. Trump prepares to take office. His campaign featured a shape-shifting list of policy proposals, often seeming to change hour to hour. His staff was in constant turmoil, with Mr. Trump's children serving critical campaign roles and a rotating cast of advisers alternately seeking access to Mr. Trump's ear, losing it and, often, regaining it, depending on the day.

Even Mr. Trump's full embrace of the Republican Party came exceedingly late in life, leaving members of both parties unsure about what he truly believes. He has donated heavily to both parties and has long described his politics as the transactional reality of a businessman.

Mr. Trump's dozens of business entanglements — many of them in foreign countries — will follow him into the Oval Office, raising questions about potential conflicts of interest. His refusal to release his tax returns, and his acknowledgment that he did not pay federal income taxes for years, has left the American people with considerable gaps in their understanding of the financial dealings.

But this they do know: Mr. Trump will thoroughly reimagine the tone, standards and expectations of the presidency, molding it in his own self-aggrandizing image.

He is set to take the oath of office on Jan. 20.

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 67 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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From: MCALEENAN, KEVIN K
Sent: Friday, November 11, 2016 2:50 PM
To: Owen, Todd C (AC OFO); WAGNER, JOHN P
Subject: FW: Metering FMUAs at the TX CBP POEs

Beverly said on our call just now that you were going to talk about this next week at your conference. Hence my other note.

I would like to attend your next one, by the way.

From: CHAVEZ, GLORIA I
Sent: Friday, November 11, 2016 2:44:25 PM
To: MCALEENAN, KEVIN K
Subject: FW: Metering FMUAs at the TX CBP POEs

Deputy - FYSA - I sent this guidance yesterday to them and spoke with Beverly about it as well.

GC

Gloria I. Chavez
Deputy Chief- Law Enforcement Operations
U.S. Border Patrol Headquarters
Washington D.C.
[REDACTED]

From: CHAVEZ, GLORIA I
Sent: Thursday, November 10, 2016 2:48:49 PM
To: GOOD, BEVERLY
Cc: TAMAYO, ENRIQUE S; FLANAGAN, PATRICK S
Subject: Metering FMUAs at the TX CBP POEs

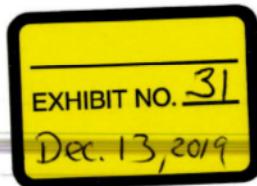
Beverly – One other topic that C2 discussed at the NAC meeting today was the ability to meter the flow of FMUAs at the POE bridges (at the middle of the bridge) at some of our Texas POEs to prevent the overflow at the actual POEs. For example, placing a couple of CBPOs at the international boundary line (middle of the bridge) to manage the flow of arriving FMUAs at the POE. The proposal was focused towards the family units from Central America; the exception being Mexican FMUAs claiming credible fear of course. All other legitimate pedestrian traffic would be okay to pass through and not be held up.

I just received word from Commissioner's staff that this proposal that C2 introduced to S1 for consideration earlier today was approved by S1 and to make notification to OFO. So please proceed with informing your OFO field leadership at some of our Texas POEs of this approval so they can start this new operational alignment to bring relief at the POEs. Also, at the local level there are valuable partnerships with our Mexican counterparts, so if possible, it would be great if OFO field leadership at those affected locations inform their Mexican counterparts of their intent.

Let me know if you have any questions.

Thank you!
GC

Regards,
Gloria I. Chavez
Crisis Action Team
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, Wash. D.C.
[REDACTED]



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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 71 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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From: AGOSTINI, JOE
Sent: Friday, November 18, 2016 7:43 PM
To: GONZALEZ, CARLOS L; BROOKS, WILLIAM K
CC: HUMPHRIES, MICHAEL W
Subject: Consolidated Weekly highlights

Perfect, I am glad DHS and HQ is involved and working with the Embassy in D.C.

We will make our adjustments here locally to make it successful and easier for everyone.

Enjoy the weekend.

Joe

From: GONZALEZ, CARLOS L
Sent: Friday, November 18, 2016 5:28 PM
[REDACTED]

Subject: RE: Consolidated Weekly highlights

Joe,

We are working the bus issue through the repatriation workgroup in DC. DHS is now involved with the Mexican embassy in DC.

INM is back to the drawing board on how to assist us meter migrants. As you may already know, we (CBP) announced to GOM two days ago that our ports will be pushing migrants without entry documents back to Mexico to await an appointment to be processed at the POEs. These self-metered measures began in El Paso already.

From my understanding, the concept pretty much involves placing CBP personnel at the international line to screen legitimate passengers with entry documents and allowing them into the processing areas while asking those that do not have documents and that may otherwise be seeking some sort of benefit to return to Mexico with a date and time issued by our personnel.

I defer to Will for guidance on how Nogales should handle this but highly recommend we push back (self-meter).

Carlos

Carlos L. Gonzalez
Attaché
Customs and Border Protection
U.S. Embassy, Mexico City
[REDACTED]



From: AGOSTINI, JOE
Sent: Friday, November 18, 2016 6:09 PM
[REDACTED]
Subject: RE: Consolidated Weekly highlights

The Local Sub Delgado and Delgado for Sonora give us limited assistance as it relates to the influx of Haitians and Central Americans.

INM in San Luis will no longer be processing or metering Haitians, I am sure they will be coming our way soon.

Also, INM is straying away from participating in helping us with the move of repatriation buses from ERO/USBP from the DeConcini to the Mariposa POE.

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This move is inevitable as GSA engineers report that the outbound lanes infrastructure is extremely weak to support more than 20,000 pounds of weight from these buses; they will be repairing the outbound lanes at the DeConcini POE at the end of January, beginning of February.

We have already met with the commercial bus companies to advise them of this move, they understand.

Joe

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

19 Plaintiffs.

**EXHIBIT 76 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

20 || V.

21 | Chad F

22 || Defense

Defendants.

⁷⁵ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Tony Reardon

From: ATKINSON, DAVID <DAVID.ATKINSON@CBP.DHS.GOV>
Sent: Tuesday, March 19, 2019 4:35 PM
To: Tony Reardon; CADRIEL, DONALD H; GUERRA, RICARDO; FLORES, MIGUEL M; MUÑOZ, RICARDO; VEGA, FRANCISCO; MONAHAN, JOHN F
Subject: FW: Safety Alert/Rule Clarification.
Attachments: Asylees 3192019.pdf

Fyi:

From: ATKINSON, DAVID
Sent: Tuesday, March 19, 2019 2:55 PM
To: MCALEENAN, KEVIN K <KEVIN.K.MCALEENAN@cbp.dhs.gov>
Cc: HARALSON, WILLIAM T <WILLIAM.T.HARALSON@cbp.dhs.gov>; IGLESIAS-JR, ROMUALDO <romualdo.iglesias-jr@cbp.dhs.gov>
Subject: Safety Alert/Rule Clarification.

Mr. Commissioner,

1st, The Port of Hidalgo, Texas employees would like a written order provided to them that mirrors their instructions to return individuals who enter the U.S. and request asylum back to Mexico without appointment or system for a future appointment. The Agency is allowing the Mexican officials to create a list and detention area mid bridge to facilitate who would be next to enter the United States from that detention site on the Mexican side, which is under the control and direction of CBP Officers on the U.S. side.

The employees would like you to provide them the proper authority and sections of law that allows them to detain these asylum seekers on the Mexican side, and prevent them from entering the U.S. after presenting themselves for inspection and requesting asylum. The Employees would like something in writing to protect their ordered activities, as the Agency is claiming publicly that they are not conducting these activities when they really are.

2nd, the employees are placed at the middle of the bridge out of line of sight of other CBP Staff and outnumbered by the asylum seekers and the possible smugglers who are attempting to enter the U.S. by foot and/or by vehicle. The employees request your intervention in this matter to ensure that they are not injured or killed as Port management is incompetent in assigning the proper amount of or stationing these officers in a safe position. Recently we have had several officers placed in a position of disadvantage without any instant reinforcements as only three are assigned away from the immediate site from all port staff. On one occurrence, an innocent vehicular driver was placed in harm's way of a struggle between a CBP officer and asylum seeker. The driver struck the Officer's holster, mere centimeters away from hitting the body of the Officer and causing grave harm or even death. Furthermore, there are routinely only 3-4 Officers assigned to the Passport Control processing area, thus delaying the wait time of the asylum seekers upwards of three weeks. Again, for this reason along with the others mentioned above, we request your immediate intervention in the matter.

3rd, the local U.S. Border Patrol is doing a poor job in picking up the asylum seekers that have already been processed.

It is surprising that local management would stage such a detention area at the middle of the bridge putting the asylum seekers and employees in pest infected areas known to be susceptible to gunshots. As of yesterday, the standing order by Supervisor Lauro Hinojosa, was not to allow any asylum seekers into the U.S. until the Mexican authorities call them up by a list of which they maintain control. They are to be sent back into Mexico, and not allowed to enter for the U.S. for processing.

1

Exhibit

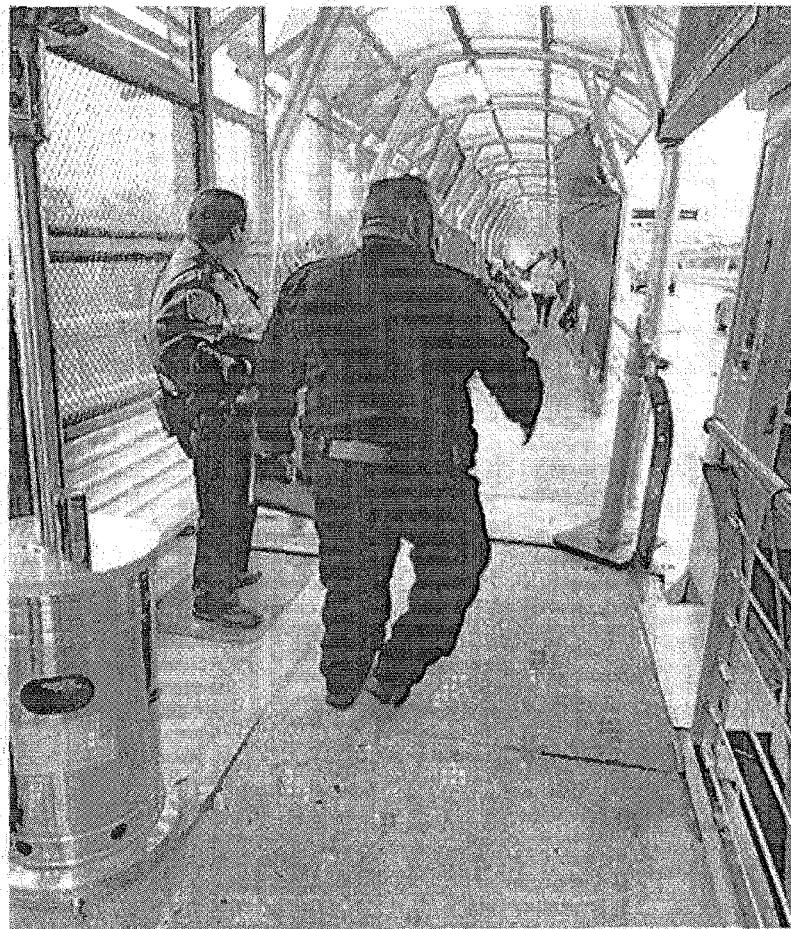
NTEU - 000110

294

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We respectfully await your immediate response.

David Atkinson, Local President NTEU Chapter 149.

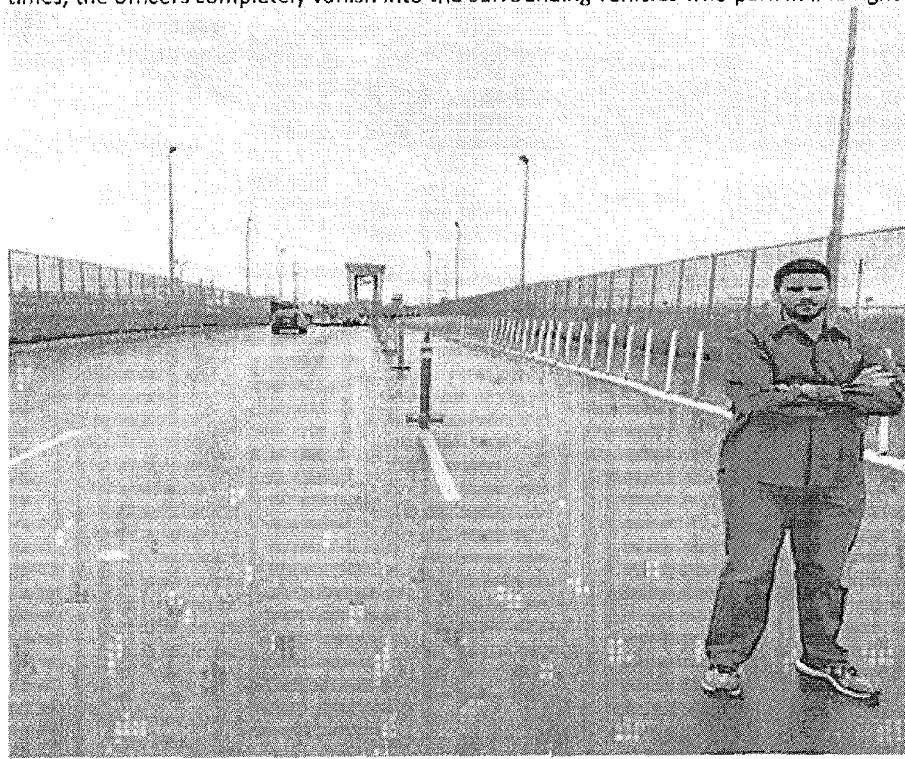


CBP and Mexican detention site, where asylum seekers are returned to Mexico to wait without notice by CBP Officers. As per local management, asylum seekers are not to enter, and detained at the middle of the bridge until they are called up by Mexican Officials to enter. CBP calls Mexican officials and they dictate who enters. The problem with this is that CBP has no control who enters, and at times, as per the interviewing CBP Officers, the people selected are the ones that have cash to bribe Mexican Officials. Also, as substantiated by the interviewing CBP Officers that claim that the Port runners are informing them that the Mexican Officials, for the right price (500), are allowed to run the Northside of the bridge.

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Cannot see the 2 officers one quarter on top of the bridge. The problem is, when the lanes get filled up during peak times, the officers completely vanish into the surrounding vehicles who park in line right after them.



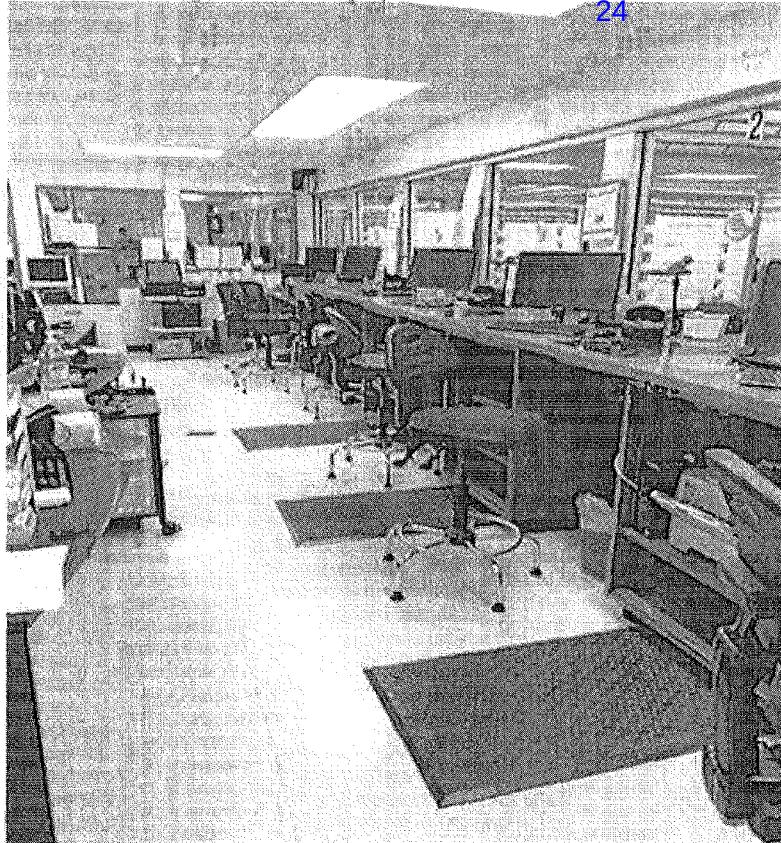
quarter on top of the bridge / cannot see bridge employees or primary booths for back-up.

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Chairs reduced to minimize the amount of persons held in the seating area leaving a huge blank space;

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No officers stationed to process work at 10-11pm, and only 4 employees to process the family unit creditable fear cases.

CBP Officers

U.S. Customs and Border Protection
U.S. Port of Hidalgo, Texas

March 6, 2019

To: Whom it may Concern:

We CBP Officers assigned the Port of Hidalgo, Texas have been ordered by CBP Supervisors to inspect persons seeking/requesting asylum status near the middle of the United States/Mexico Bridge in Hidalgo, Texas on the United States side. We are posted mere feet into the U.S. from the US/Mexico borderline and are intercepting and immediately preventing asylees who request asylum from entering the United States. After their immediate request, we are instantly sending them back into Mexico without a date, time or appointment to be allowed into the United States for processing. We are not aware of any process used to inform these asylum seekers to return to the Port for processing into the U.S. and feel there is a need for clarification for the authority or law allowing us to immediately deny entry to these asylum seekers into the United States and returning them back into Mexico. Therefore, we are requesting the person of authority or section of law that grants us the power to act as ordered and mentioned above.

Respectfully Submitted, CBP Officers Signed below:

Ramona Flores 
Danielle Valdez 
Luis Gutierrez 
Abraim Guzman 
J. Lopez 
Isabel O. 
Gabriel Gutierrez 


Israel Noyes 
Leonardo Cantu 
Federico Martinez 
Juan Pineda 

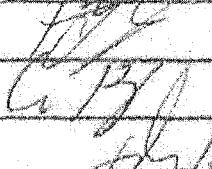
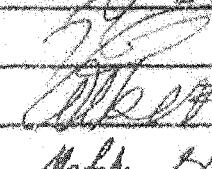
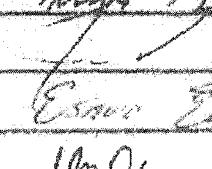
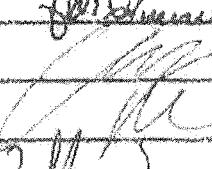
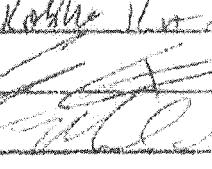
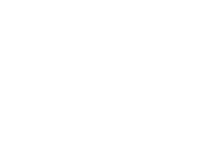
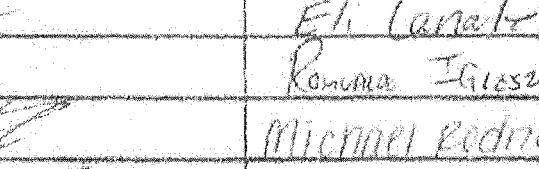
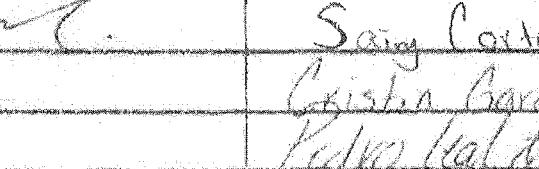
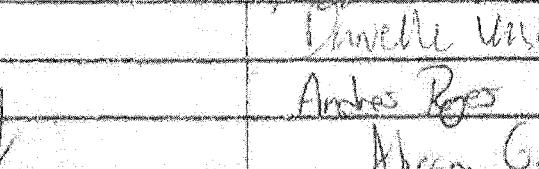
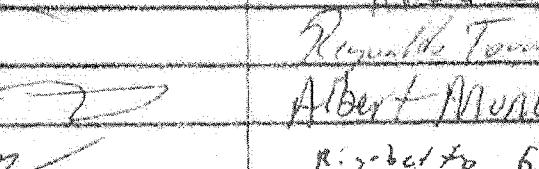
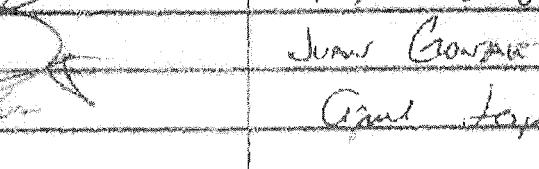
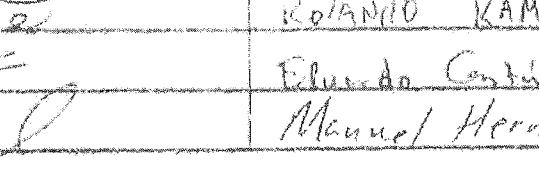

I. Salinas 
R. Castillo 
R. Tovar Guadalupe 

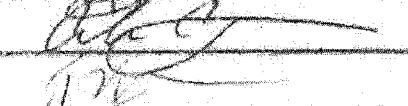
Joan Garcia *J. Garcia*
Christian Gutierrez *C. Gutierrez*
Andrea Lopez *A. Lopez*
Doral. Saig Cortes
Marcus Gonzales *M. Gonzales*
Oscar Molina *O. Molina*
Abigail Lugo *A. Lugo*
Jesus Flores *J. Flores*
Amanda Benavides
Javier Rodriguez *J. Rodriguez*
Federico Solis *F. Solis*
Roberto Cheyna *R. Cheyna*
Ruben R. Bautista *R. R. Bautista*
Gloria S. Quarte *G. Quarte*
Robert Rojas *R. Rojas*
Martin Garcia *M. Garcia*
Nidia Gao *N. Gao*
D. B.
Ramiro Reyna Jr. *R. Reyna Jr.*
J. G. Jesus Gonzalez

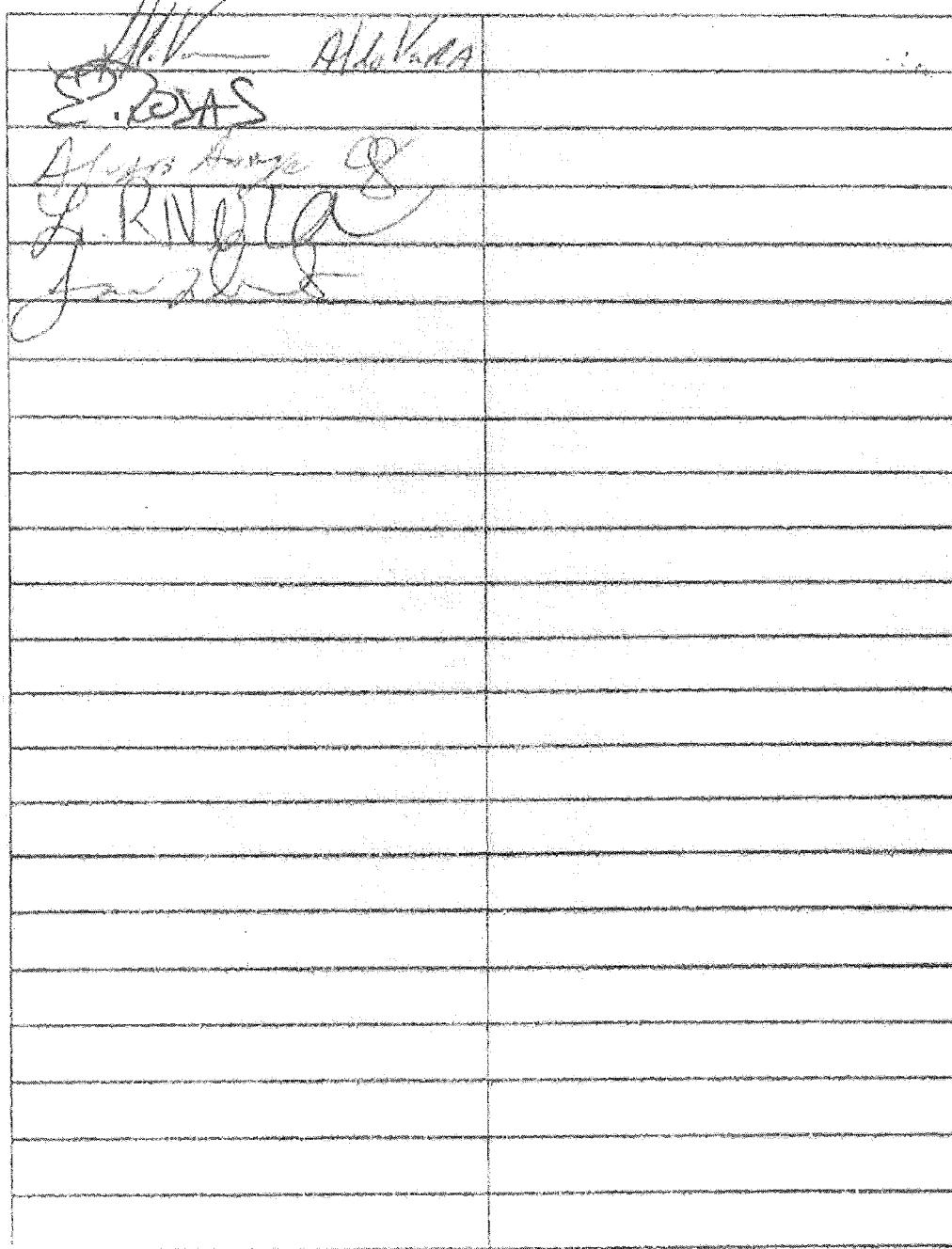
Case 3:17-cv-02366-BAS-KSC Document 535-78 Filed 09/04/20 PageID.48210 Page 10 of 24

PORT	PRINT NAME	OPEN	DATE
2305	J. Garcia	PPC	9/25/18
2305	E. Rios	PPC	9/25/18
2305	M. Fuentes	PPC	9/25/18
2305	V. Lano	PPC	9/25/18
2305	C. Rodriguez	PPC	9-25-18
2305	M. Ospina	PPC	9/25/18
2305	B. Ramirez	PPC	09/25/2018
2305	L. Rodriguez	PPC	9/25/18
2305	C. CASTRO	PPC	9/25/18
2305	G. Diaz	PPC	9/25/18
2305	A. Lugo	PPC	9/25/18
2305	F. Rodriguez	PPC	9/25/18
2305	C. Diaz	PPC	9/25/18
2305	S. Correa	PPC	9/25/18
2305	J. Garcia	PPC	9/25/18
2305	M. Rodriguez	PPC	9/25/18
2305	A. Ospina	PPC	9/25/18
2305	J. Flores	PPC	9/25/18
2305	G. Lugo	PPC	9/25/18
2305	R. Hernandez	PPC	9/25/18
2305	C. Diaz	PPC	9/25/18

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	José Pérez
	Eli Canales
	Romina Iglesias
	Michael Rodriguez
	Saury Cortes
	Kristin Garcia
	Pedro Maldonado
	Inez Vazquez
	Andres Rojas
	Alvaro Gomez
	Reynolds Flores Barrios
	Albert Munoz
	Roberto Gonzalez
	Juan Gonzalez
	Gisela Lopez
	Oscar Molina
	Cesar Portillo
	Rolando Ramon
	Eduardo Cortes
	Manuel Hernandez

Juan Shuank	
Jesus Salinas	
Diego Cano	
Jose T. ARET	
J. CARME, D. MORE	
Nobk Ron	
DAVID GONZALEZ	
Juan Marquez	
Juan C. Tijerina, Jr.	
Roel C.	
Alberto M.	
Esel De la Fuente	
JOSÉ R. LEM	
Juan Espanza	
Carlos Casares	
Francisco Vilina	
Mariela Fierro	
Cesar Madero	
Mark Latza	
Stephanie	
For me Jose Lem	
Diego	

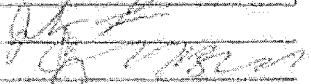


NTEU - 000120

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NAMES	
1.	LUCIO JULIAN
2.	BALLI CHARLES
3.	CIFUENTES JORGE
4.	LOPEZ AZAEL
5.	GONZALEZ ENRIQUE
6.	THOMAS BRITTANY
7.	GUAJARDO ADAN
8.	RODRIGUEZ RODRIGO
9.	GARCIA MARTIN
10.	IBARRA JESSICA
11.	ELVIRA ESIQUIO

12. David Longoria
13. Mario Bazaldua
14.

SIGNATURES	
	Julian Lucio
	Charles Balli
	Jorge CIFuentes
	Azael Lopez
	Enrique Gonzalez
	Brittany Thomas
	Adan Guajardo
	Rodrigo Rodriguez
	Martin Garcia
	Jessica Ibarra
	Elvira Esiquo
	David Longoria
	Mario Bazaldua
	14.

NTEU - 000121

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Jan Sosa	Jan Sosa
Rebecca Gano	Rebecca Gano
Daphne	Daphne
Roxana Bueso	Roxana Bueso
Jeff	Jeff
Officer David Noguer	
Rebekah Clark	
Christina Padilla	
Alma	
Edna K. Rios	Edna K. Rios
Javier Rodriguez	Javier Rodriguez
Clarice Polkay	Clarice Polkay
Lauren Gonzalez	Lauren Gonzalez

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Bobby Gomez
1) Claude Poliard
Javier Rodriguez
SAL Sanchez
1) Jesus Sosa
Cristal Ramirez
1) Giselle Lopez
1) Oscar Molano
1) Amanda Benavides
1) Ricardo Casas JR.
1) Andrea Lopez
1) Reynel Rodriguez
1) Manuel Gonzalez
1) Abraham Pena
1) Victoria Casas
1) Claudia Gonzalez
1) Israel Rosendo
1) Marisol Mercado
1) ~~CF~~
1) Israel Noguer
1) SAMUEL S. ESCAMILLA
2) Manuel Gonzalez
3) Christian Castro
4) Abigail Rodriguez
5) JOAQUIN GOMEZ
6)
7)
8)

Case 3:17-cv-02366-BAS-KSC Document 535-78 Filed 09/04/20 PageID.48218 Page 18 of 24

- 1) Kaez
- 2) Gregorio Hernandez
- 3) Gabriel Garcia
- 4) Thomas
- 5) Adrian Diaz
- 6) Mario Godinez
7. Roger Rodriguez
8. RL RB
9. Heber Tresino
0. S. Dominguez

NTEU - 000125

Enrique Gonzalez ~~Enrique Gonzalez~~
John de Rio ~~John de Rio~~
Brenda Sommerville ~~Brenda Sommerville~~
Breno Gomes ~~Breno Gomes~~
David Hartman ~~David Hartman~~
Javier Garcia ~~Javier Garcia~~
Leyla Dials ~~Leyla Dials~~
Vito Payne ~~Vito Payne~~

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**U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security**

Memorandum

March 4, 2019

MEMORANDUM FOR: SCBPO Jorge Rodriguez
FROM: Customs and Border Protection Officer Ismael Noguez
SUBJECT: Northbound primary incident

On March 4, 2019 at approximately 1320 hours CBPO Ismael Noguez was instructed to shut down vehicle lane 11 by the duty shift supervisor at the Hidalgo Texas Port of Entry. CBPO Noguez along with CBPO Eli Canales walked to the top of the bridge to close lane 11. While CBPO Noguez was up at the top of the bridge a driver of the GUZMAN bus line informed CBPO Noguez and CBPO Canales that there were several people running northbound along the Sentri lane. CBPO Noguez and CBPO Canales walk towards the Sentri lane where the lane turns to the right at the top of the hill. CBPO Noguez was positioned towards the bottom of the hill because he was closing lane 11. There was drizzle and the pavement was wet causing a slippery surface.

CBPO Noguez immediately observed a group of approximately 9 individuals approaching him. In his officer experience at the Hidalgo Port of Entry it is not uncommon to see large groups of people running north bound via the vehicle lanes and primary booths in an attempt to enter. CBPO Noguez immediately observed he was outnumbered. CBPO Noguez put his hands out and instructed them to stop and not to run in English and Spanish. Immediately a male walks from around the group and starts walking towards CBPO Ismael Noguez in a fast manner closing the distance quickly. CBPO Ismael Noguez again give him instructions to stop. CBPO Ismael Noguez was positioned downhill of the group as the man approached CBPO Ismael Noguez. CBPO Ismael Noguez again put his left hand out and signaled the man to stop. The man did not obey the command and continued to approach CBPO Ismael Noguez quickly. The individual did not obey the command and immediately came into contact with CBPO Ismael Noguez thus assaulting CBPO Ismael Noguez by pushing thru his arm and hand. This caused CBPO Ismael Noguez to be pushed down hill momentarily until he regained his balance.

CBPO Ismael Noguez attempted to gain control of the male by grabbing one arm and positioning his body against the fence. The male resisted by swinging around to confront CBPO Ismael Noguez. When the man turned towards CBPO Ismael Noguez he assaulted him again by striking CBPO Noguez in the face with his left arm. CBPO Ismael Noguez attempted to gain full

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control of his arms but the male then again pushed him in an attempt to run thru him. CBPO Ismael Noguez instructed the male to put his hands behind his back but he failed to obey commands and instead continued to resist any attempt to gain control of his hands.

CBPO Eli Canales and CBPO Ismael Noguez then tackled the man to the ground in an attempt to gain control of the male. Once on the ground the male curled up and would not give access to his hands to be secured after he was given commands in Spanish. As this happened CBPO Ismael Noguez observed the rest of the group run northbound towards the primary booths. The man attempted to head bunt CBPO Eli Canales as he tried to gain control of his arm and hands. Moments later another group of approximately 4 people approached the area where CBPO Ismael Noguez and CBPO Eli Canales were trying to restrain the individual. The group was instructed to stop by CBPO Ismael Noguez but they did not stop and eventually continued running northbound.

CBPO Ismael Noguez positioned his right knee on top of the male's back to secure the movement of his head to the ground while he attempted to gain control of his hands. The man clenched his arms together and would not obey commands to place his hands behind his back. The male actively resisted even when he was on the ground and at no point did he obey the command to stop resisting.

The male was secured in handcuffs and the hand cuffs were checked for tightness and were double locked. An immediate pat down was also performed with negative findings. The subject was escorted down the bridge to vehicle secondary for further processing.

The male was later identified as Herhert Asdrubal Soriano Torres (October 22, 1987), nationality of El Salvador. I reserve the right to make any future modifications to this document at any time hereafter.

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ATKINSON, DAVID

From: REYNA JR, RAMIRO
Sent: Monday, March 18, 2019 1:38 PM
To: ATKINSON, DAVID; HARALSON, WILLIAM T
Subject: (S/OP) Commitment Incident 03/17/2019
Attachments: S-OP Indicent Memo.doc

Atkinson/Haralson,

Attached is the memo provided to SCBPO M. Solis about the incident.

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U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

Memorandum

DATE: March 17, 2019

TO: File

FROM: Ramiro Reyna Jr.
 U.S. Customs and Border Protection Officer

On March 17, 2019 I Customs and Border Protection Officer Ramiro Reyna Jr. was assigned to work 0800-1600 HB1A at the Hidalgo, TX, Port of Entry. Between the times of 1200-1600 I Customs and Border Protection Officer Esfrain Gonzalez were assigned to commitment (S/OP) as our first time ever covering this commitment CBPO Gonzalez and I were briefed by Customs and Border Protection Jaime Vidal that we were to stand on the bridge or sit inside the unit looking for anyone attempting walk/run down the bridge. At approximately 1552 hours CBPO Gonzalez and I visually saw an adult male carrying a minor male later identified as Adult Subject Rodriguez, Juan Carlos DOB: 02/27/1995 A: 201451668 and Minor Male Subject Rodriguez Lara, Oliver Adelso DOB: 05/14/2014 A: 201451669 walking on the bridge. Subject Rodriguez was spotted walking in and out of different vehicle lanes, at one point he also stayed behind a bus acting in a way as if he was attempting to hide from CBPO's. When subject Rodriguez approach the mid line Mexico/USA and asked to come in, CBPO Gonzalez and I asked for proper documentation for proper travel into the USA in which subject stated he nor his son have any documents to enter the USA. CBPO Gonzalez then informed subject that we would be able to help though would have to turn back around and enter the pedestrian side of the bridge for assistance. Subject Rodriguez turned around, walked back approximately 10 yards then turned around and ran in full speed towards the Sentri lane into the USA all while carrying his minor son. I quickly without hesitation ran towards the subject and grabbed him by his jacket, at the same time while this was occurring cars were traveling down the Sentri lane at approximately 15-25 miles per hour. Through the momentum of running and grabbing the subject Rodriguez a 2011 Hyundai Tuscon TX CX4T294 driver Lopez, David DOB: 10/02/1978 USC that was traveling down the Sentri lane hit the right side of my body the driver door in which my duty issued pistol holster dented/scratched the door of the vehicle. The subject driving the vehicle immediately stopped as I and subject Rodriguez fell in front of the vehicle. I quickly got on top of subject while he was on a prone positon, pinned his heel towards his lower back to gain control of the situation. Subject was placed in double lock issued handcuffs and an immediate patdown was conducted for any weapons. While this occurred CBPO Gonzalez and Security Narvaez had control of the minor male, being held by a hand. Subject was then escorted to passport hard secondary for further processing. The vehicle and driver involved asked to speak to a supervisor in regards to the damages on the vehicle. Driver Lopez later spoke with Supervisory and Customs and Border Protection Officer Marco Solis who informed and provided the driver with the TORT claim process. While in the process of detaining subject Rodriguez I cut and

Vigilance ★ *Service* ★ *Integrity*

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U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

Memorandum

scrapped my right knuckles which caused it to bleed, my knee and right shoulder felt soar as well. SCBPO M. Solis was advised of the injury.

Vigilance ★ *Service* ★ *Integrity*

NTEU - 000131

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2 Matthew H. Marmolejo (CA Bar No. 242964)
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4 350 S. Grand Avenue
5 25th Floor
6 Los Angeles, CA 90071-1503
7 Ori Lev (DC Bar No. 452565)
8 (*pro hac vice*)
9 *olev@mayerbrown.com*
10 Stephen M. Medlock (VA Bar No. 78819)
11 (*pro hac vice*)
12 *smedlock@mayerbrown.com*
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16 Facsimile: +1.202.263.3300

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18 Melissa Crow (DC Bar No. 453487)
19 (*pro hac vice*)
20 *melissa.crow@splcenter.org*
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22 Washington, D.C. 20036
23 Telephone: +1.202.355.4471
24 Facsimile: +1.404.221.5857

25 *Additional counsel listed on next page*
26 Attorneys for Plaintiffs

27 **UNITED STATES DISTRICT COURT**
28 **SOUTHERN DISTRICT OF CALIFORNIA**

29 Al Otro Lado, Inc., *et al.*,

30 Case No.: 17-cv-02366-BAS-KSC

31 Plaintiffs,

32 v.
33 **EXHIBIT 79 IN SUPPORT OF**
34 **PLAINTIFFS' MEMORANDUM OF**
35 **POINTS AND AUTHORITIES IN**
36 **SUPPORT OF THEIR MOTION**
37 **FOR SUMMARY JUDGMENT**

38 Chad F. Wolf,⁷⁸ *et al.*,

39 Defendants.

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78 Acting Secretary Wolf is automatically substituted for former Acting Secretary
79 McAleenan pursuant to Fed. R. Civ. P. 25(d).

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1 CENTER FOR CONSTITUTIONAL RIGHTS

2 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

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4 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

5 *gschwarz@ccrjustice.org*

6 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

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8 666 Broadway, 7th Floor

9 New York, NY 10012

10 Telephone: +1.212.614.6464

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17 150 E. Ponce de Leon Ave., Suite 340

18 Decatur, GA 30030

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20 Facsimile: +1.404.221.5857

21 AMERICAN IMMIGRATION COUNCIL

22 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

23 *kwalters@immccouncil.org*

24 1331 G St. NW, Suite 200

25 Washington, D.C. 20005

26 Telephone: +1.202.507.7523

27 Facsimile: +1.202.742.5619

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Walter Dresslar

From: HARALSON, WILLIAM T <WILLIAM.T.HARALSON@cbp.dhs.gov>
Sent: Wednesday, April 12, 2017 12:09 PM
To: Walter Dresslar
Cc: ATKINSON, DAVID; CLOUGH, ERIC; PONCE, EDUARDO H
Subject: Arbitration Invocation Request (Failure to Process Asylum/Credible Fear Seekers HID 2017)
Attachments: FailureToProcessAsylumERCFseekersHID2017.pdf

Mr. Dresslar,

Chapter 149 would like to invoke the attached grievance into arbitration as the Agency has continuously failed to properly process asylum and/or credible fear seekers at the Ports of Hidalgo, Texas. Aliens seeking

The Agency's Step 3 response was received on March 31st, 2017 and thirty (30) days from then would be April 30th, 2017 (last day to invoke). A hard copy of this grievance will be sent to you later today.

I will call you to discuss the details of this grievance and the evidence we have of the Agency's violation as well as any additional information you will require to invoke this grievance into arbitration.

Respectfully,

William T. Haralson
NTEU Representative
NTEU Chapter 149
956-843-5749 Union Office
956-239-2747 Cell



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Chapter 149 Hidalgo, Texas

January 19, 2017

Mr. Carlos J. Gonzalez
9901 South Cage Blvd
Pharr, Texas 78577
956-227-7168
9562832060
carlos.javier.gonzalez.cbp.dhs.gov

Dear Sir,

Pursuant to the current National CBP/NTEU National Bargaining Agreement (NBCA), the Union is requesting a Step 1 grievance meeting with the Agency concerning:

(Article 2- Section 1) The Agency's failure to exercise the referenced authorities or discretion fairly and consistently so as to avoid adverse impact to the employee's working conditions, responsibilities, integrity and creditability with the position they hold with the US Government.

(Article 33- Sections 1 and 4A) The Agency also failed to initiate prompt and appropriate action to correct unsafe conditions whenever they are found to exist and raised. In which the Agency is required to make every reasonable effort, consistent with the mission of the Service and the inherent hazards of the work to be performed, to provide and maintain safe and healthful working conditions when and where it is within its authority and control to do so.

(Article 3- Section 3, Article 31- Section 4A and B) Therefore, the Agency officials failed to conduct themselves in a professional and businesslike manner, characterized by mutual courtesy, in their day to day working relationships when, (Article 26-Section 3.A) the Agency unilaterally implemented without notice changes in operational or administrative procedures or of any new initiative affecting an employee's working conditions, lawful orders; by acting in the following capricious and malicious manner:

Brief Summary:

Since, on or about 12/6/2016 and in a continuing manner, the Agency has unilaterally implemented a policy that prevents and/or blocks CBP Officers (pedestrian primary/secondary) from processing political **asylum** seekers and assessing their possible persecution or torture, and their potential

NTEU - 000142

national security and/or terrorist threats to the United States. To include, recording asylum seeker's contact with CBP Officers at the Hidalgo, Ports of Entry while physically presenting themselves for inspection. CBP Directive 3320-002A, CBP Directive 3340-040A, current Immigration and Nationality Act (INA).

Example, but not limited to: CBPO Josh Garza referred Other Than Mexican (OTM) Asylum seekers during his 6am to 8am overtime assignment on 12/31/2016 while working with CBPO David Atkinson. CBP Supervisor Marco Solis and Private Security Guards (LARA) escorted the referred asylum seekers back to Mexico without secondary system screening or evaluation (direct radio communication) PCS employees stated that this was the running order from management for OTM asylum seekers. CBP Supervisor Marco Solis and other Agency representatives informed CBPO David Atkinson with witnesses (Clough, Garza) that the Agency was not processing OTMs for asylum purposes and that they are to be returned to Mexico, or call the supervisor and they would escort them out of the building, that they are not being referred for processing, just metered reports internally for numbers.

In ladder, this also includes the following:

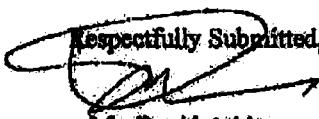
- 3] Reducing the safety environment for employees at the passenger and secondary sites by not evaluating or screening persons who are Other Than Mexican (OTM) seeking political asylum (e.g., but not limited to Africans, El Salvadorians...) as lawfully mandated and past practiced. Private Security Guards are instructed by the Agency to stop certain asylum seekers from entering the building, have them call a CBP Supervisor and, both Supervisors and security guards deny entry and processing and escort them back to the path to Mexico.
- 4] Continuation of preventing/ blocking CBP Officers from referring all asylum seekers into secondary for evaluation and processing. As officers are order by Agency officials to transport and transfer certain asylum seekers (OTM's) from one city (Pharr, Texas) to another (Hidalgo, Texas) without screening and having them directly forced back into Mexico without the following checks: health or national security and/or terrorist threats. (12/6/2016-CBP Supervisors Marco Solis, Efrain Gonzalez, Ismael Hernandez; CBP Officer's Jessica Itarra, Abraham Pena, Sylvia Guerra and Eric Clough). 8 USC 1158(a)(1), 8 USC 1225(b)(1)(A)(ii), 8 USC 235(B).
- 5] Failing to provide health screening or hazard plans for employees who come in contact with overnight ill or non-ill asylum seekers in the PCS areas. In fact, certain asylum seekers are told by Agency officials (Uribe) not to disclose their illnesses to any person, as they would be returned to their country. This in turn creates and unsanitary and unhealthy working environment for employees in the passenger secondary rotational sites, as the PCS areas have a continuous strong odor of human waste lingering in the air.
- 6] Implementation of a policy and procedure that places officers in jeopardy of violating federal law, rules and regulations pertaining to asylum seekers; which threatens a CBP Officer's employment, credibility and integrity with the US Government.
- 7] Asylum seekers were emotional traumatized, employees were stressed out by the practices placed by the agency.

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Remedy:

The Union is requesting that all employees that were not allowed to process asylum seekers due to the Agency's orders and unilateral practices be exonerated from all wrong doing as mandated by the NCBA. The Union requests that health checks be completed on asylum seeking detainees prior to their extended stay during processing. The Union requests that a Job Hazards Plan be implemented for the affected work environments that detain and handle temporarily detained individuals in the A, B, and C buildings. The Union requests back-pay for all mandated work that would have been conducted if the asylum processing, transportation, care and detainment procedures would have been followed pursuant to CBP Mandates, law, rules and regulations. Additional Cleaning of inspectional sites; back pay for all work conducted by Private Security Officers that would have otherwise been mandated to be performed by a CBP Officer in the facilitation and handling of blocked/denied asylum seekers. All attorney fees and all other remedies deemed appropriate by a third party.

Please provide a proposed meeting date for this meeting by email. Please respond electronically at david.atkinson@cbp.dhs.gov and for any additional information concerning this matter. You may also reach me at 956-227-2222.


Respectfully Submitted,
Mr. David Atkinson
President- NTEU Chapter 149
Hidalgo, Texas.

NTEU - 000144

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Chapter 149

Hidalgo, Texas

February 21, 2017

Mr. Javier Cantu
U.S. Customs and Border Protection
Hidalgo, Texas

Step 2 Grievance (Failure to Process ER/CP & Asylum Seekers HID 2017)

Mr. Cantu,

Due to the Agency's failure to respond to this issue at the Step 1 grievance level, The Union hereby requests an Article 27, Section 12.B-Step 2 Grievance meeting with you pursuant to the Current CBP/NTEU National Collective Bargaining Agreement (NCBA) regarding all issues raised in the CBP Form 280 and its attachments.

Please provide me with a proposed date and time to meet concerning this matter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "WILLIAM T. HARALSON".

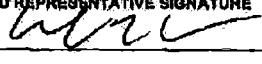
Mr. William T. Haralson
NTEU Representative
Chapter 149- Hidalgo, Texas

NTEU - 000145

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DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection
National Treasury Employees Union

GRIEVANCE FORM

2. FILER (EMPLOYEE NAME(S) OR UNION CHAPTER) William T. Haralson/NTEU Chapter 149		1A. GRIEVANCE NUMBER Failure to Process ER/CF & Asylum HID 2017	1B. DATE FILED 2/21/2017
4. EMPLOYEE'S IMMEDIATE SUPERVISOR (NAME) Acting Port Director Jayler Cantu/ Chief SCBPO Carlos Gonzalez		3. EMPLOYEE POSITION AND WORK STATION CBP Officers/Ports of Hidalgo, Texas	
5. EMPLOYEE'S REPRESENTATIVE (CHECK ONE) <input type="checkbox"/> SELF <input checked="" type="checkbox"/> UNION (COMPLETE 6A & 6B)		6A. NAME OF UNION REPRESENTATIVE William T. Haralson	6B. UNION REP. TELEPHONE NUMBER 956-227-2222
6A. SPECIFIC ARTICLE(S) OR SECTION(S) OF THE AGREEMENT ALLEGED TO HAVE BEEN VIOLATED, SECTIONS OF APPLICABLE LAW OR REGULATION ALLEGED TO HAVE BEEN VIOLATED; OR THE SPECIFIC NATURE OF THE CONDITION OF EMPLOYMENT IN DISPUTE. All Articles and Sections of the National CBP/NTEU Agreement dated May 11, 2011 (NCBA) and the following articles and sections: ARTICLE 2-Section 1; ARTICLE 3-Section 3; ARTICLE 7-Sections H and I; ARTICLE 26-Section 10; ARTICLE 31-Sections 4.A and 4.B; ARTICLE 32-Sections 1 and 4.A; ARTICLE 35-All; ARTICLE 35-Section G.2; ARTICLE 37-All; ARTICLE 37-Sections 1, 3 and 5; 19 USC 267; 19 USC 281; 19 USC 1451 (1011/1944 Overtime), as amended; Federal Employees Pay Act of 1945 (FEPA), as amended; CBP Directive 3320-002A; CBP Directive 3340-040A; 5 USC 7116(a) 1,6,7 and 8; Current Immigration and Nationality Act (INA); 8 USC 1158(a)(1); 8 USC 1226(b)(1)(A)(ii); 8 USC 235 (B).			
6B. IF ALLEGATION OF AN UNFAIR LABOR PRACTICE, INDICATE SPECIFIC SECTION(S) OF 19 USC 2710(d) THAT HAVE BEEN VIOLATED BY CHECKING APPLICABLE BOX(S). IT IS AN UNFAIR LABOR PRACTICE FOR THE AGENCY TO:			
<input checked="" type="checkbox"/> (1) TO INTERFERE WITH, RESTRAIN OR COERCE ANY EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT UNDER THIS CHAPTER; <input type="checkbox"/> (2) TO ENCOURAGE OR DISCOURAGE MEMBERSHIP IN ANY LABOR ORGANIZATION BY DISCRIMINATION IN CONNECTION WITH HIRING, TENURE, PROMOTION, OR OTHER CONDITIONS OF EMPLOYMENT; <input type="checkbox"/> (3) TO SPONSOR, CONTROL, OR OTHERWISE ASSIST ANY LABOR ORGANIZATION, OTHER THAN TO FURNISH, UPON REQUEST, CUSTOMARY AND ROUTINE SERVICE AND FACILITIES IF THE SERVICES AND FACILITIES ARE ALSO FURNISHED ON AN IMPARTIAL BASIS TO OTHER LABOR ORGANIZATIONS HAVING EQUIVALENT STATUS; <input type="checkbox"/> (4) TO DISCIPLINE OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS FILED A COMPLAINT, AFFIDAVIT, OR PETITION, OR HAS GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS CHAPTER; <input checked="" type="checkbox"/> (5) TO REFUSE TO CONSULT OR NEGOTIATE IN GOOD FAITH WITH A LABOR ORGANIZATION AS REQUIRED BY THIS CHAPTER; <input type="checkbox"/> (6) TO FAIL OR REFUSE TO COOPERATE IN IMPASSE PROCEDURES AND IMPASSE DECISIONS AS REQUIRED BY THIS CHAPTER; <input checked="" type="checkbox"/> (7) TO ENFORCE ANY RULE OR REGULATION (OTHER THAN A RULE OR REGULATION IMPLEMENTING SECTION 2302 OF THIS TITLE) WHICH IS IN CONFLICT WITH ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT IF THE AGREEMENT WAS IN EFFECT BEFORE THE DATE THE RULE OR REGULATION WAS PRESCRIBED; OR <input checked="" type="checkbox"/> (8) TO OTHERWISE FAIL OR REFUSE TO COMPLY WITH ANY PROVISION OF THIS CHAPTER.			
6C. PROHIBITED PERSONNEL PRACTICE (SEE ARTICLE 7, SEC. 2 OF THE NATIONAL AGREEMENT) 5 USC 7116(a) 1,5,7,8.			
7. STATEMENT OF THE CIRCUMSTANCES GIVING TO RISE TO THE GRIEVANCE (PROVIDE NATURE OF THE INCIDENT, PERSONS INVOLVED, TIME, DATE, PLACE, ETC.) See Attachments A and B			
8. ACTION REQUESTED PROVIDED IN ATTACHMENT A			
9. EMPLOYEE SIGNATURE 		DATE 2/21/2017	
10. NTEU REPRESENTATIVE SIGNATURE 		DATE 2/21/2017	

Attachment A

Since, on or about December 6, 2016 and in a continuing manner, the Agency has unilaterally implemented a policy that prevents and/or blocks CBP Officers (Pedestrian/Vehicle Primary/Secondary) from processing subjects who seek asylum or express credible fear of persecution or torture in their native country. This intentional blocking of subjects also prevents CBP Officers from properly screening them for any potential National security and/or terrorist threats to the United States. This Agency practice also prevents any type of recording system for asylum seeker's contact with CBP Officers at the Hidalgo, Texas Ports of Entry while physically presenting themselves for inspection. CBP Directive 3320-002A, CBP Directive 3340-040A, Current Immigration and Nationality Act (INA). (See Attachment B)

Example, but not limited to: While conducting his inspectional duties alongside CBP Officer David Atkinson (Witness) during his 0600 to 0800 overtime assignment on 12/31/2016, CBP Officer Josh Garza referred OTM (Other than Mexican) asylum seekers to CBP secondary for processing. CBP Supervisor Marco Solis and contract Security Guard (Lara) then escorted the referred asylum seekers back to Mexico without secondary system screening or evaluation (direct radio communication). PCS employees stated that this practice is the result of an ongoing order from management for OTM Asylum seekers attempting to make entry into the United States via the Hidalgo, Texas Ports of Entry. CBP Supervisor Marco Solis and other Agency Representatives informed CBPO David Atkinson along with witnesses (CBPO Clough, CBPO Garza) that the Agency was not processing OTMs for asylum purposes and that they are to be returned to Mexico, or the duty Supervisor was to be contacted who would then escort subjects out of the FIS and no OTM asylum seekers would be referred for secondary processing (only metered reports for internal numbers/stats).

This also includes the following:

- 1] Reducing the safety environment for employees at the passenger and secondary processing areas by not evaluating or screening persons who are other than Mexican (OTM) Nationals seeking political asylum (e.g., but not limited to: Eritreans, El Salvadorians, etc.) as lawfully mandated and past practiced. Private security guards are instructed by the Agency to cut off and prevent certain asylum seekers from entering the building, they are then instructed to contact the duty CBP Supervisor and both the security guards and Supervisory CBP Officers deny entry and any subsequent secondary processing of individuals before escorting them back to Mexico.
- 2] Continuation of preventing/blocking CBP Officers from referring all asylum seekers into secondary for evaluation and processing. As Officers are ordered by Agency Officials to transport and transfer certain asylum seekers (OTMs) from one city (Pharr, Texas) to another (Hidalgo, Texas) without any proper secondary screening and having them directly escorted back to Mexico without the following checks: health or national security and/or terrorist threats. (12/6/2016-CBP Supervisors Marco Solis, Efrain Solis,

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and Ismael Hernandez; CBP Officers Jessica Ibarra, Abraham Pena, Sylvia Guerra and Eric Clough). 8 USC 1158(a)(1), 8 USC 1225(b)(1)(A)(ii), and 8 USC 235 (B).

3] Failing to provide health screening or job hazard plans for employees who come in contact with overnight ill or non-ill asylum seekers in the Passport Control Secondary (PCS) areas. In fact, certain asylum seekers are told by Agency Officials (Acting Chief Jose Uribe) not to disclose their illnesses to any person or Officer, as they would be returned to their country. This in turn creates an unsanitary and unhealthy working environment for employees in the passenger secondary rotational work sites, as the PCS areas have a continuous and lingering strong odor of human waste in the air.

4] Implementation of a policy and procedure that places officers in jeopardy of violating Federal Law, rules and regulations pertaining to asylum seekers; which threatens a CBP Officer's employment, credibility and integrity with the U.S. Government.

5] As a result of the Agency's implantation of this practice, Asylum seekers have been emotionally traumatized and employees have been placed in a position that can result in undue physical and/or emotional stress.

Remedy

The Union is requesting that all employees who were not allowed to process asylum seekers due to the Agency's orders and unilateral practices be exonerated from all wrongdoing as mandated by the National Collective Bargaining Agreement (NCBA). The Union requests that health checks be performed on asylum seeking detainees prior to their extended stay during processing. The Union requests that a Job Hazards Plan be implemented for the affected work environments that detain and handle temporarily detained individuals in the A, B, and C buildings. The Union requests back-pay for all mandated work that would have been conducted if the asylum processing, transportation, care and detainment procedures would have been followed pursuant to CBP Mandates, Law, rule and regulations. The Union requests additional cleanings of the inspectional sites, back pay for all work conducted by private security Officers that would have been otherwise been mandated to be performed by a CBP Officer in the facilitation and handling of blocked/denied asylum seekers. The Union requests that the Agency abide by all local and National level agreements. The Union requests back pay compensation for all qualified and available affected employees for all lost monies and work assignments in whatever form they may appear (Overtime, Premium Pay, Night Pay, Call-Back and Commutes) for any past, current or future lost overtime assignment(s) and all attorney fees and other awards deemed necessary by a third party. This compensation is for all affected time periods to include thereafter arbitration if needed. The Union requests that the Agency immediately comply with the National Collective Bargaining Agreement (NCBA), Federal laws, rules and regulations

Attachment B

NTEU - 000149

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CUSTOMS DIRECTIVE

**CANCELLED BY OFFICE OF FIELD OPERATIONS, ADMISSIBILITY AND
PASSENGER PROGRAMS, 12/14/09**

ORIGINATING OFFICE: FO:P

DISTRIBUTION: S-01

CUSTOMS DIRECTIVE NO. 3320-002A

DATE: JUNE 8, 1999

SUPERSEDES: 3320-002, 12/2/88

REVIEW DATE: JUNE 2001

**SUBJECT: REQUESTS BY PERSONS TO REMAIN IN UNITED STATES (E.G.,
POLITICAL ASYLUM)**

1 PURPOSE. To inform Customs officers of the proper procedures to follow when a person (including a crewmember) arriving in the United States informs a Customs officer that he or she wishes to remain in the United States.

2 POLICY.

2.1 This directive applies to all persons arriving in the United States, regardless of nationality or means of conveyance, including those on foot.

2.2 The United States is bound by both the Protocol on Refugees and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, except under extraordinary circumstances, may not return persons to countries where they may face persecution or torture. United States statutes and regulations implementing these international obligations require that only officers specifically trained and experienced in asylum law, country conditions, and related matters make the determination whether the person should be returned to another country. The U.S. Customs Service, therefore, defers to the Immigration and Naturalization Service to make such determinations.

3 AUTHORITIES/REFERENCES. 19 USC 1433; 19 USC 1436; 19 USC 1461; 19 USC 1467; 19 USC 1496; 19 USC 1582; 46 USC App. 91; 19 CFR Part 148; 19 CFR 4.60(a) and 122.61-122.65.

4 RESPONSIBILITIES.

4.1 Principal Field Officers, to include Port Directors, are responsible for developing and establishing procedures to ensure proper implementation of this Directive.

4.2 Supervisors shall ensure that inspectional personnel are familiar with the procedures outlined in this directive and that all guidelines are followed.

NTEU - 000150

5 PROCEDURES.

5.1 When a person arriving in the United States and regardless of the means of transport makes known to a Customs officer a desire to remain in the United States, it shall be assumed by the Customs officer that the person is seeking asylum in the United States. The person does not have to use the specific terms "asylum" or "persecution" to justify such an assumption by the Customs officer. The person may not say anything at all, but his non-verbal actions or body language may make the person's intention or fear of return obvious to the Customs officer. Customs officers are not to make judgement calls concerning such fear based on country of origin, credibility of the person, or possible strength of the claim. When a person expresses such a fear or desire to remain in the United States, further action shall be taken as follows:

5.1.1 If the Customs officer is working with a U.S. Immigration and Naturalization Service (INS) officer, the person seeking to remain in the United States shall be immediately turned over to the INS officer and the Customs officer shall forthwith notify the Port Director. The Port Director shall notify the Director, Field Operations, the Associate Chief Counsel, and the HQ Situation Room (1-877-748-7686), which shall notify the appropriate Customs officers at Headquarters, including the Assistant Commissioner (Field Operations).

5.1.2 If no U.S. Immigration and Naturalization Service (INS) officer is immediately available, the Customs officer shall detain the person seeking to remain in the United States under 19 USC 1582 (see also, 19 USC 1433, 1436, 1461, 1487, and 1496 and 19 CFR Part 148) and notify the nearest INS office or the appropriate INS office having jurisdiction over the location where the inspection is taking place that a person has expressed a fear of persecution or desire to remain in the United States. Protective Custody should be provided the person seeking to remain in the United States and, if necessary, reasonable force may be used to thwart attempts at forcible repatriation until an INS officer has had an opportunity to question the person. If, at a small land border port, an INS officer is unable to respond, the person may be directed to the nearest INS-staffed port.

5.2 The Customs officer shall obtain the name, nationality, date and place of birth, occupation, and documents of the person seeking to remain in the United States; the circumstances and location of the incident; and any other pertinent information. The Customs officer shall immediately call the Port Director and the Customs officer's immediate supervisor. If the Port Director and the Customs officer's immediate supervisor are not available, the Customs officer shall notify Sector. The Customs officer shall explain the situation to the Port Director, immediate supervisor, or responsible official in Sector and shall provide that person with the information he or she has obtained. The Port Director or other responsible official notified shall notify the INS District Director and arrange for the transfer of the case to the INS as soon as possible. The Customs Port Director shall ensure that all other appropriate Federal agencies (usually the Department of State and the Coast Guard) are immediately

advised of the situation so that action can be properly coordinated. The Customs Port Director shall also notify the Director, Field Operations, and the Headquarters Situation Room (1-877-748-7666). Headquarters will be responsible for ensuring that the U.S. Secret Service Intelligence Division Duty Desk Supervisor, (202) 435-5000, is notified of the incident.

5.3 If the person seeking to remain in the United States is on board a vessel or aircraft and the master of the vessel or the commander of the aircraft refuses to permit the person to leave the vessel or aircraft, clearance (see 46 USC App. 91 and 19 CFR 4.60(a) and 122.81-122.85) shall be withheld pending resolution of the matter. The Headquarters Situation Room (1-877-748-7666) shall be contacted immediately and they shall contact the appropriate Customs officials at Headquarters.

6 **MEASUREMENT.** The number of requests by persons to remain in the United States reported to the Headquarters Situation Room.

Commissioner of Customs

NTEU - 000152



U.S. Citizenship and
Immigration Services

Asylum



ALERT: Asylum Division Affirmative Asylum Scheduling Bulletin

Every year people come to the United States seeking protection because they have suffered persecution or fear that they will suffer persecution due to:

- Race
- Religion
- Nationality
- Membership in a particular social group
- Political opinion

If you are eligible for asylum you may be permitted to remain in the United States. To apply for Asylum, file a Form I-589, Application for Asylum and for Withholding of Removal, within one year of your arrival to the United States. There is no fee to apply for asylum.

You may include your spouse and children who are in the United States on your application at the time you file or at any time until a final decision is made on your case. To include your child on your application, the child must be under 21 and unmarried. For more information see our Form I-589, Application for Asylum and for Withholding of Removal page.

Permission to Work in the United States

You cannot apply for permission to work (employment authorization) in the United States at the same time you apply for asylum.

You may apply for employment authorization if:

- 150 days have passed since you filed your complete asylum application, excluding any delays caused by you (such as a request to reschedule your interview) AND
- No decision has been made on your application

If you are granted asylum you may work immediately. Some asylees choose to obtain Employment Authorization Documents (EADs) for convenience or identification purposes, but an EAD is not necessary to work if you are an asylee.

To apply for employment authorization, you must file a [Form I-765, Application for Employment Authorization](#). There is no fee to apply for your first EAD if you have a pending asylum application or if you have been granted asylum. For more information see our [Form I-765, Application for Employment Authorization](#) page.

See the [180-Day Asylum EAD Clock Notice \(PDF, 338 KB\)](#) and the [ABT Settlement Agreement](#) for further information.

Bringing Your Family to the United States

If you are granted asylum you may petition to bring your spouse and children to the United States by filing a [Form I-730, Refugee/Asylee Relative Petition](#). To include your child on your application, the child must be under 21 and unmarried.

You must file the petition within two years of being granted asylum unless there are humanitarian reasons to excuse this deadline. There is no fee to file this petition. For more information see our [Form I-730, Refugee/Asylee Relative Petition](#) page.

Filing for Permanent Residence (Green Card)

You may apply for a green card one year after being granted asylum. To apply for a green card, file a [Form I-485, Application to Register Permanent Residence or to Adjust Status](#). You must submit a separate I-485 application packet for yourself and, if applicable, for each family member who received derivative asylum based on your case.

For more information about green cards, see our [Green Cards for an Asylee](#) page. For more information about asylum, see our [Questions & Answers: Asylum](#) page.



Last Reviewed/Updated: 08/06/2015

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Step 1 Grievance

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Chapter 149 Hidalgo, Texas

January 19, 2017

Mr. Carlos J. Gonzalez
9901 South Cage Blvd
Pharr, Texas 78577
956-227-7168
9562832060
carlos.javier.gonzalez.cbp.dhs.gov

Dear Sir,

Pursuant to the current National CBP/NTEU National Bargaining Agreement (NBCA), the Union is requesting a Step 1 grievance meeting with the Agency concerning:

(Article 2- Section 1) The Agency's failure to exercise the referenced authorities or discretion fairly and consistently so as to avoid adverse impact to the employee's working conditions, responsibilities, integrity and creditability with the position they hold with the US Government.

(Article 33- Sections 1 and 4A) The Agency also failed to initiate prompt and appropriate action to correct unsafe conditions whenever they are found to exist and raised. In which the Agency is required to make every reasonable effort, consistent with the mission of the Service and the inherent hazards of the work to be performed, to provide and maintain safe and healthful working conditions when and where it is within its authority and control to do so.

(Article 3- Section 3, Article 31- Section 4A and B) Therefore, the Agency officials failed to conduct themselves in a professional and businesslike manner, characterized by mutual courtesy, in their day to day working relationships when: (Article 26-Section 3.A) the Agency unilaterally implemented without notice changes in operational or administrative procedures or of any new initiative affecting an employee's working conditions, lawful orders; by acting in the following capricious and malicious manner:

Brief Summary:

Since, on or about 12/6/2016 and in a continuing manner, the Agency has unilaterally implemented a policy that prevents and/or blocks CBP Officers (pedestrian primary/secondary) from processing political asylum seekers and assessing their possible persecution or torture, and their potential

national security and/or terrorist threats to the United States. To include, recording asylum seeker's contact with CBP Officers at the Hidalgo, Ports of Entry while physically presenting themselves for inspection. CBP Directive 3320-002A, CBP Directive 3340-040A, current Immigration and Nationality Act (INA).

Example, but not limited to: CBPO Josh Garza referred Other Than Mexican (OTM) Asylum seekers during his 6am to 8am overtime assignment on 12/31/2016 while working with CBPO David Atkinson. CBP Supervisor Marco Solis and Private Security Guards (LARA) escorted the referred asylum seekers back to Mexico without secondary system screening or evaluation (direct radio communication) PCS employees stated that this was the running order from management for OTM asylum seekers. CBP Supervisor Marco Solis and other Agency representatives informed CBPO David Atkinson with witnesses (Clough, Garza) that the Agency was not processing OTMs for asylum purposes and that they are to be returned to Mexico, or call the supervisor and they would escort them out of the building, that they are not being referred for processing, just metered reports internally for numbers.

In ladder, this also includes the following:

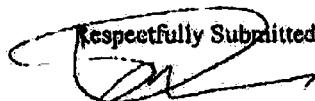
- 3] Reducing the safety environment for employees at the passenger and secondary sites by not evaluating or screening persons who are Other Than Mexicans (OTM) seeking political asylum (e.g., but not limited to Africans, El Salvadorians,...) as lawfully mandated and past practiced. Private Security Guards are instructed by the Agency to stop certain asylum seekers from entering the building, have them call a CBP Supervisor and, both Supervisors and security guards deny entry and processing and escort them back to the path to Mexico.
- 4] Continuation of preventing/ blocking CBP Officers from referring all asylum seekers into secondary for evaluation and processing. As officers are order by Agency officials to transport and transfer certain asylum seekers (OTM's) from one city (Pharr, Texas) to another (Hidalgo, Texas) without screening and having them directly forced back into Mexico without the following checks: health or national security and/or terrorist threats. (12/6/2016-CBP Supervisors Marco Solis, Efrain Gonzalez, Ismael Hernandez, CBP Officer's Jessica Ibarra, Abraham Pena, Sylvia Guerra and Eric Clough). 8 USC 1158(a)(1), 8 USC 1225(b)(1)(A)(ii), 8 USC 235(B).
- 5] Failing to provide health screening or hazard plans for employees who come in contact with overnight ill or non-ill asylum seekers in the PCS areas. In fact, certain asylum seekers are told by Agency officials (Uribe) not to disclose their illnesses to any person, as they would be returned to their country. This in turn creates and unsanitary and unhealthy working environment for employees in the passenger secondary rotational sites, as the PCS areas have a continuous strong odor of human waste lingering in the air.
- 6] Implementation of a policy and procedure that places officers in jeopardy of violating federal law, rules and regulations pertaining to asylum seekers; which threatens a CBP Officer's employment, credibility and integrity with the US Government.
- 7] Asylum seekers were emotional traumatized, employees were stressed out by the practices placed by the agency.

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Remedy:

The Union is requesting that all employees that were not allowed to process asylum seekers due to the Agency's orders and unilateral practices be exonerated from all wrong doing as mandated by the NCBA. The Union requests that health checks be completed on asylum seeking detainees prior to their extended stay during processing. The Union requests that a Job Hazards Plan be implemented for the affected work environments that detain and handle temporarily detained individuals in the A, B, and C buildings. The Union requests back-pay for all mandated work that would have been conducted if the asylum processing, transportation, care and detainment procedures would have been followed pursuant to CBP Mandates, law, rule and regulations. Additional Cleaning of inspectional sites, back pay for all work conducted by Private Security Officers that would have otherwise been mandated to be performed by a CBP Officer in the facilitation and handling of blocked/denied asylum seekers. All attorney fees and all other remedies deemed appropriate by a third party.

Please provide a proposed meeting date for this meeting by email. Please respond electronically at david.atkinson@cbp.dhs.gov and for any additional information concerning this matter. You may also reach me at 956-227-2222.

Respectfully Submitted,

Mr. David Atkinson
President- NTEU Chapter 149
Hidalgo, Texas.

NTEU - 000158

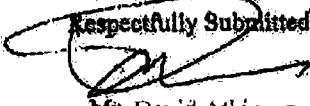
Case 3:17-cv-02366-BAS-KSC Document 535-81 Filed 09/04/20 PageID.48253 Page 21 of 21

Remedy:

The Union is requesting that all employees that were not allowed to process asylum seekers due to the Agency's orders and unilateral practices be exonerated from all wrong doing as mandated by the NCEA. The Union requests that health checks be completed on asylum seeking detainees prior to their extended stay during processing. The Union requests that a Job Hazards Plan be implemented for the affected work environments that detain and handle temporarily detained individuals in the A, B, and C buildings. The Union requests back-pay for all mandated work that would have been conducted if the asylum processing, transportation, care and detainment procedures would have been followed pursuant to CBP Mandates, law, rule and regulations. Additional Cleaning of inspectional sites, back pay for all work conducted by Private Security Officers that would have otherwise been mandated to be performed by a CBP Officer in the facilitation and handling of blocked/denied asylum seekers. All attorney fees and all other remedies deemed appropriate by a third party.

Please provide a proposed meeting date for this meeting by email. Please respond electronically at david.atkinson@cbp.dhs.gov and for any additional information concerning this matter. You may also reach me at 956-227-2222.

Respectfully Submitted,


Mr. David Atkinson
President- NTEU Chapter 149
Hidalgo, Texas.

NTEU - 000159

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25 *Additional counsel listed on next page*
26 *Attorneys for Plaintiffs*

27 **UNITED STATES DISTRICT COURT**
28 **SOUTHERN DISTRICT OF CALIFORNIA**

29 Al Otro Lado, Inc., *et al.*,

30 Case No.: 17-cv-02366-BAS-KSC

31 Plaintiffs,

32 v.
33 **EXHIBIT 82 IN SUPPORT OF**
34 **PLAINTIFFS' MEMORANDUM OF**
35 **POINTS AND AUTHORITIES IN**
36 **SUPPORT OF THEIR MOTION**
37 **FOR SUMMARY JUDGMENT**

38 Chad F. Wolf,⁸¹ *et al.*,

39 Defendants.

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81 Acting Secretary Wolf is automatically substituted for former Acting Secretary
82 McAleenan pursuant to Fed. R. Civ. P. 25(d).

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1 CENTER FOR CONSTITUTIONAL RIGHTS
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4 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)
5 *gschwarz@ccrjustice.org*
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21 AMERICAN IMMIGRATION COUNCIL
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Case 3:17-cv-02366-BAS-KSC Document 283-1 Filed 08/16/19 PageID.6779 Page 2 of 2

1300 Pennsylvania Avenue NW
Washington, DC 20229



U.S. Customs and
Border Protection

APR 27 2018

MEMORANDUM FOR: See Distribution [REDACTED]

FROM: Todd C. Owen [REDACTED]
Executive Assistant Commissioner
Office of Field Operations

SUBJECT: Metering Guidance

When necessary or appropriate to facilitate orderly processing and maintain the security of the port and safe and sanitary conditions for the traveling public, DFOs may elect to meter the flow of travelers at the land border to take into account the port's processing capacity. Depending on port configuration and operating conditions, the DFO may establish and operate physical access controls at the borderline, including as close to the U.S.-Mexico border as operationally feasible. DFOs may not create a line specifically for asylum-seekers only, but could, for instance, create lines based on legitimate operational needs, such as lines for those with appropriate travel documents and those without such documents.

Ports should inform the waiting travelers that processing at the port is currently at capacity and CBP is permitting travelers to enter the port once there is sufficient space and resources to process them. At no point may an officer discourage a traveler from waiting to be processed, claiming fear of return, or seeking any other protection. Officers may not provide tickets or appointments or otherwise schedule any person for entry. Once a traveler is in the United States, he or she must be fully processed.

INAMI has, at times, elected to conduct exit controls at some locations in Mexico to limit the throughput of travelers into the United States. DFOs should be particularly aware of any INAMI controls that are preventing U.S. citizens, LPRs, or Mexican nationals (some of whom may intend to claim fear) from entering the United States, and should work with INAMI, as appropriate, to address such concerns.

Please ensure that this memorandum is disseminated to all ports of entry within your area of responsibility. Should you have any questions or require additional information, please contact [REDACTED] Executive Director, APP, at [REDACTED]

Distribution: Director, Field Operations, El Paso
Director, Field Operations, Laredo
Director, Field Operations, San Diego
Director, Field Operations, Tucson

EXHIBIT 3

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 84 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Case 3:17-cv-02366-BAS-KSC Document 767-44 Filed 09/30/21 PageID.67256 Page 3 of 5

From: HOOD, ROBERT W <[REDACTED]>
Sent: Tuesday, April 24, 2018 9:02 PM
To: AH NEE, KAREN S <[REDACTED]>; GORDON, TAKA T <[REDACTED]>; AKI, SIDNEY K <[REDACTED]>; MARIN, MARIZA <[REDACTED]>
Subject: RE: SYS AEU Custody Report for 04/24/2018 @ 1630 HRS

Thank you

From: AH NEE, KAREN S
Sent: Tuesday, April 24, 2018 5:43:47 PM
To: HOOD, ROBERT W; GORDON, TAKA T; AKI, SIDNEY K; MARIN, MARIZA
Subject: RE: SYS AEU Custody Report for 04/24/2018 @ 1630 HRS

We are intaking 82 right now and there's nothing at the turnstile.

Karen S. Ah Nee
Branch Chief, U.S. Customs & Border Protection
Admissibility Enforcement Unit/UTRT
San Ysidro Port of Entry
[REDACTED]

From: HOOD, ROBERT W
Sent: Tuesday, April 24, 2018 5:41 PM
To: GORDON, TAKA T <[REDACTED]>; AKI, SIDNEY K <[REDACTED]>; MARIN, MARIZA <[REDACTED]>; AH NEE, KAREN S <[REDACTED]>
Subject: RE: SYS AEU Custody Report for 04/24/2018 @ 1630 HRS

How many are we intaking right now?

Is there a line waiting at the Ped West turnstile?

From: GORDON, TAKA T
Sent: Tuesday, April 24, 2018 4:41:12 PM
To: AKI, SIDNEY K; HOOD, ROBERT W; MARIN, MARIZA; AH NEE, KAREN S
Subject: SYS AEU Custody Report for 04/24/2018 @ 1630 HRS

All,

OFO currently has **209** detainees in custody (**0** detainees at BP Barracks, **0** detainees at IMB, **209** detainees at SYS POE, and **0** in the Hospital).

<u>Completed Cases:</u>	
Total Completed Cases: 57 (35 Singles, 1 UAC, 21 individuals from 7 Family Units)	Total: 57
Locations: BP Barracks: 0 IMB BP Station: 0 SYS POE: 57 HOSPITAL: 0	
Pending Processing at SYS POE: 116 (116 at SYS POE, 0 in the Hospital)	

22 Need to be processed as ER/CF/OTM ERs /Paroles. 93 Individuals 32 from Family Units need to be processed as NTAs/ERs. 1 UAC needs to be processed as NTA. 0 New cases pending input in SIGMA.	Total: 116
Mexican Fraud/Not going into custody: 36 (36 at SYS POE, 0 in the Hospital)	Total: 36
Currently OFO: 209	Total: 209

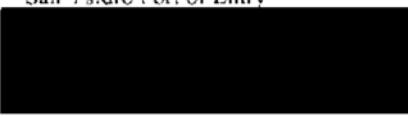
******Total waiting at Limit Line: 0******

Days in Custody

00-03 DAYS: 204	OFO: 204	Barracks: 0	IMB: 0
04-07 DAYS: 05	OFO: 05	Barracks: 0	IMB: 0
08-11 DAYS: 0	OFO: 00	Barracks: 0	IMB: 0
12-15 DAYS: 0	OFO: 0	Barracks: 0	IMB: 0
16-25+ DAYS: 0	OFO: 0	Barracks: 0	IMB: 0

Respectfully,

Taka T. Gordon
Supervisory CBP Officer
Admissibility Enforcement Unit
Tactical Terrorist Response Team
Customs and Border Protection
San Ysidro Port of Entry



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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 85 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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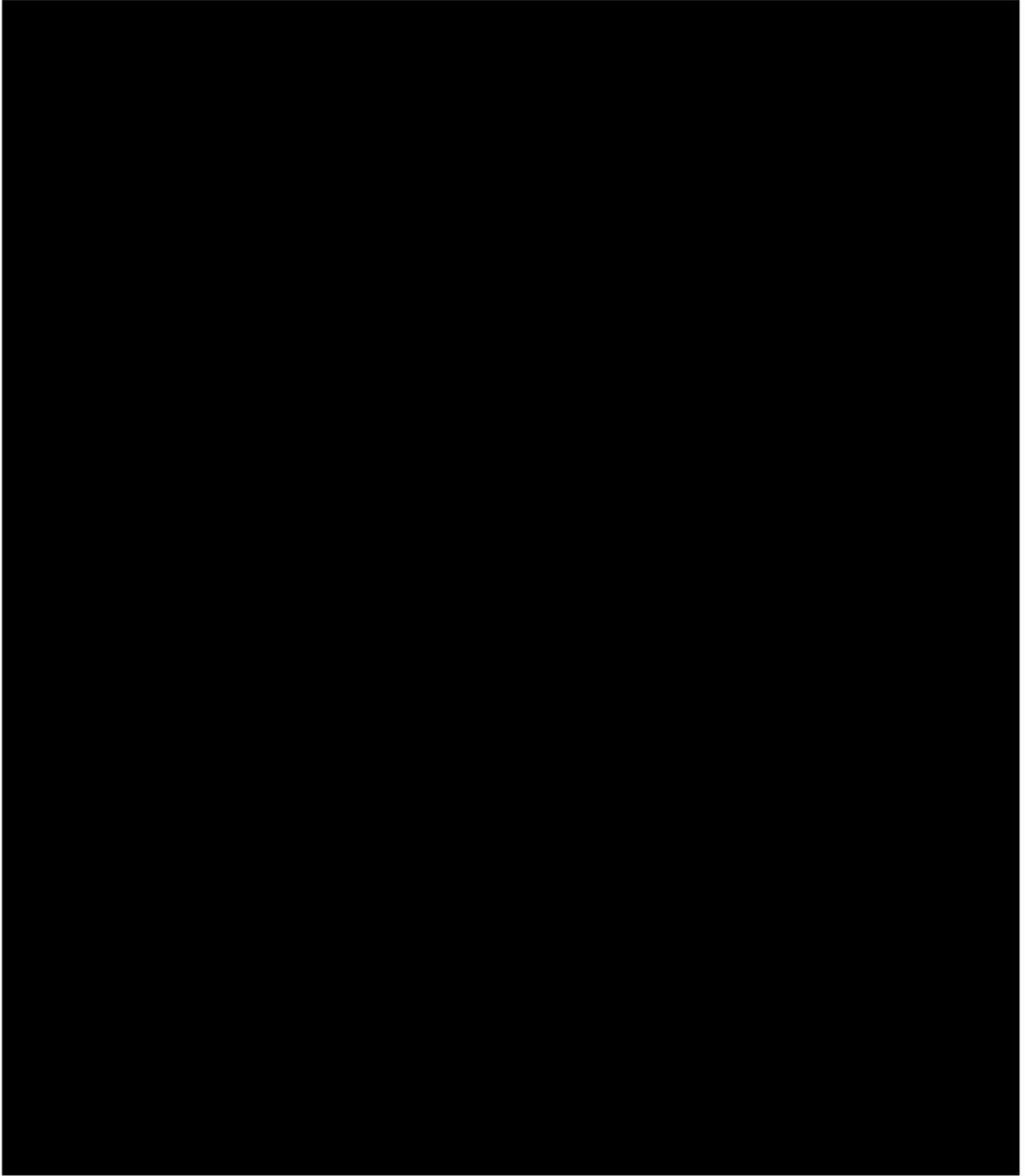
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Case 3:17-cv-02366-BAS-KSC Document 767-45 Filed 09/30/21 PageID.67261 Page 3 of 5

From: CALVILLO, CHRISTIAN D <[REDACTED]
Sent: Friday, April 27, 2018 9:29 AM



Subject: SYS AEU Custody Report for 04/27/2018
Attach: SYS AEU CUSTODY REPORT 04-27-2018.xls

All,

OFO currently has **257** detainees in custody (**0** detainees at BP Barracks, **0** detainees at IMB, **257** detainees at SYS POE, and **0** in the Hospital).

<p>Completed Cases:</p> <p>Total Completed Cases: 59 (28 Singles, 0 UAC, 31 individuals from 10 Family Units)</p> <p>Locations: BP Barracks: 0 IMB BP Station: 0 SYS POE: 59 HOSPITAL: 0</p>	Total: 59
<p>Pending Processing at SYS POE: 158 (158 at SYS POE, 0 in the Hospital)</p> <p>40 Need to be processed as ER/CF/OTM ERs /Paroles. 117 Individuals from 39 Family Units need to be processed as NTAs/ERs. 1 UAC needs to be processed as NTA. 0 New cases pending input in SIGMA.</p>	Total: 158
<p>Mexican Fraud/Not going into custody: 40 (40 at SYS POE, 0 in the Hospital)</p>	Total: 40

Currently OFO: 257

Total: 257

*****Total waiting at Limit Line: 0***** **DAYS IN CUSTODY**

00-03 DAYS: 256	OFO: 256	Barracks: 0	IMB: 0
04-07 DAYS: 01 ERO NOTIFIED MOVEMENT PENDING	OFO: 01	Barracks: 0	IMB: 0
08-11 DAYS: 0	OFO: 00	Barracks: 0	IMB: 0
12-15 DAYS: 0	OFO: 0	Barracks: 0	IMB: 0
16-25+ DAYS: 0	OFO: 0	Barracks: 0	IMB: 0

Sincerely,

CHRISTIAN D. CALVILLO
 Customs and Border Protection Officer
 Admissibility Enforcement Unit
 Office of Field Operations
 San Ysidro Port of Entry



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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 86 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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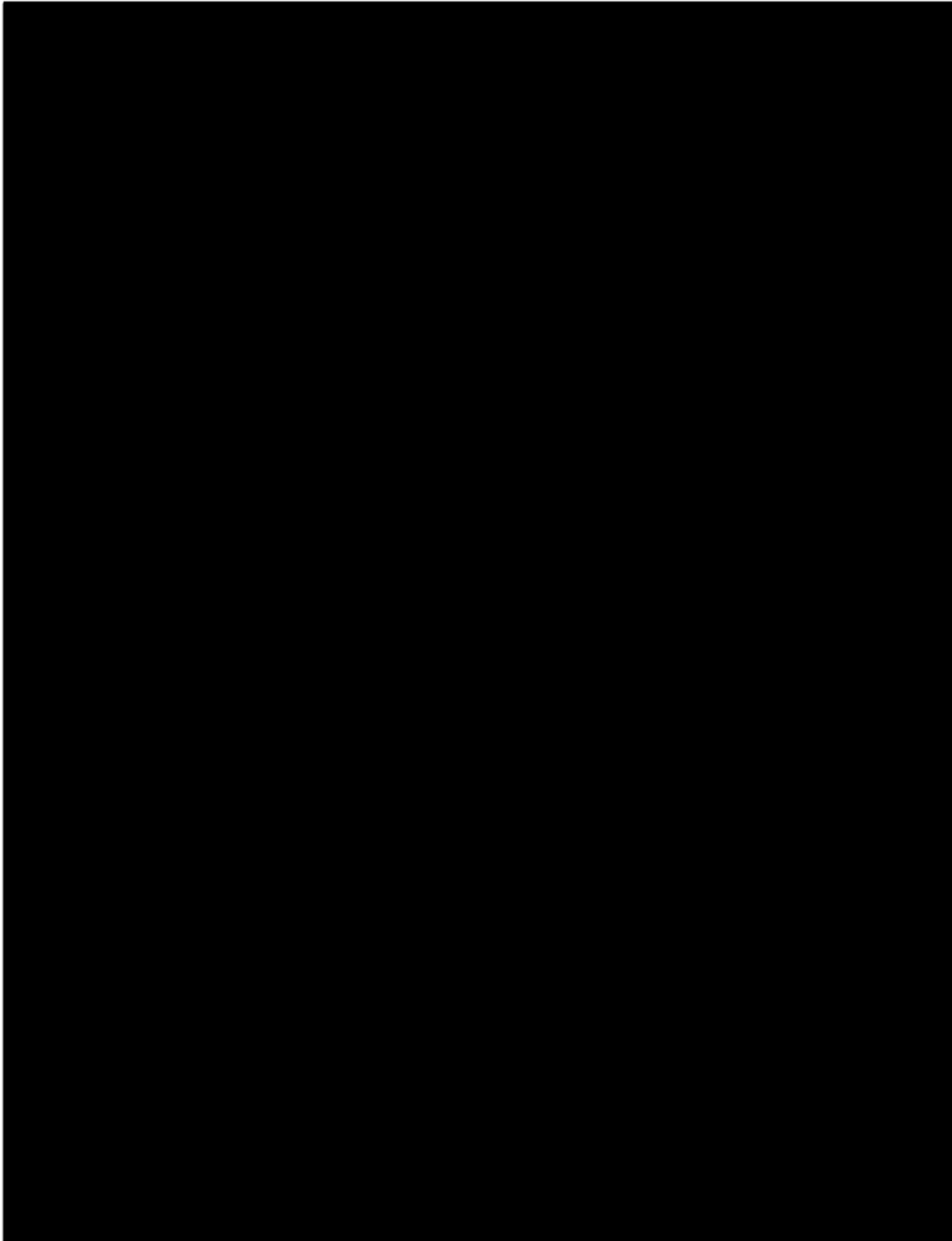
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Case 3:17-cv-02366-BAS-KSC Document 767-46 Filed 09/30/21 PageID.67266 Page 3 of 5

From: CALVILLO, CHRISTIAN D <[REDACTED]>
Sent: Saturday, April 28, 2018 8:40 AM



Case 3:17-cv-02366-BAS-KSC Document 767-46 Filed 09/30/21 PageID.67267 Page 4 of 5

Subject: SYS AEU Custody Report for 04/28/2018
Attach: SYS AEU CUSTODY REPORT 04-28-2018.xls

All,

OFO currently has **253** detainees in custody (**0** detainees at BP Barracks, **0** detainees at IMB, **253** detainees at SYS POE, and **0** in the Hospital).

<u>Completed Cases:</u>	
Total Completed Cases: 31 (23 Singles, 1 UAC, 7 individuals from 2 Family Units)	Total: 31
Locations: BP Barracks: 0 IMB BP Station: 0 SYS POE: 31 HOSPITAL: 0	
Pending Processing at SYS POE: 171 (171 at SYS POE, 0 in the Hospital)	Total: 171
47 Need to be processed as ER/CF/OTM ERs /Paroles. 120 Individuals from 43 Family Units need to be processed as NTAs/ERs. 4 UAC needs to be processed as NTA. 0 New cases pending input in SIGMA.	
Mexican Fraud/Not going into custody: 51 (51 at SYS POE, 0 in the Hospital)	Total: 51
Currently OFO: 253	Total: 253

Total waiting at Limit Line: 0

DAY IN CUSTODY

00-03 DAYS: 253	OFO: 253	Barracks: 0	IMB: 0

Case 3:17-cv-02366-BAS-KSC Document 767-46 Filed 09/30/21 PageID.67268 Page 5 of 5

04-07 DAYS: 0	OFO: 0	Barracks: 0	IMB: 0
08-11 DAYS: 0	OFO: 00	Barracks: 0	IMB: 0
12-15 DAYS: 0	OFO: 0	Barracks: 0	IMB: 0
16-25+ DAYS: 0	OFO: 0	Barracks: 0	IMB: 0

Sincerely,

CHRISTIAN D. CALVILLO

Customs and Border Protection Officer

Admissibility Enforcement Unit

Office of Field Operations

San Ysidro Port of Entry



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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 87 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Migration Crisis Action Team

April 29, 2018

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Homeland
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Total	Demographic	App's / Inadmissibles (Previous Day)	21-Day Average	Currently in Custody	Average TIC (HRS)	Processed Complete / Ready for ERO	TOT	Prev	Day
							OT	Rev	Day
CBP Southwest Border	UAC	143	188	196	27	108	11		
	FMUA	458	540	1,595	49	853	40		
	Single Adults	992	1,051	1,752	42	828	29		
	Total App's	1,593	1,779	3,543	44	1,789	81		
USBP Southwest Border	Demographic	Apprehensions (Previous Day)	21-Day Average	Currently in Custody	Average TIC (HRS)	Processed Complete / Ready for ERO	TOT	Prev	Day
	UAC	108	150	153	24	80	10		
	FMUA	313	347	1,253	47	647	28		
	Single Adults	777	833	1,444	36	751	22		
OFO Southwest Border	Total App's	1,198	1,331	2,850	40	1,478	61		
	Demographic	Inadmissibles (Previous Day)	21-Day Average	Currently in Custody	Average TIC (HRS)	Processed Complete / Ready for ERO	TOT	Prev	Day
	UAC	35	39	43	37	28	1		
	FMUA*	145	203	342	57	206	11		
OFO Southwest Border	Singles	215	228	308	70	77	6		
	Total Subjects	395	470	693	61	311	20		

*OFO did not start tracking FMUA until March 2016



Homeland Security

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	TUCSON	OFO Port	Capacity
EZ	20%		
LRT	16%		
RGV	42%		
SDC	10%	BROWNSVILLE, TX (2301)	
TCA	8%	CALExico, CA (2503/2507)	
YUM	46%	EL PASO, TX (2402)	
Total	20%	HIDALGO, TX (2305)	
		LAREDO, TX (2304)	
		NOGALES, AZ (2604)	
Central Processing	Capacity	In Custody	% Capacity
RGV/CPC			76%
TCA/TCC			38%

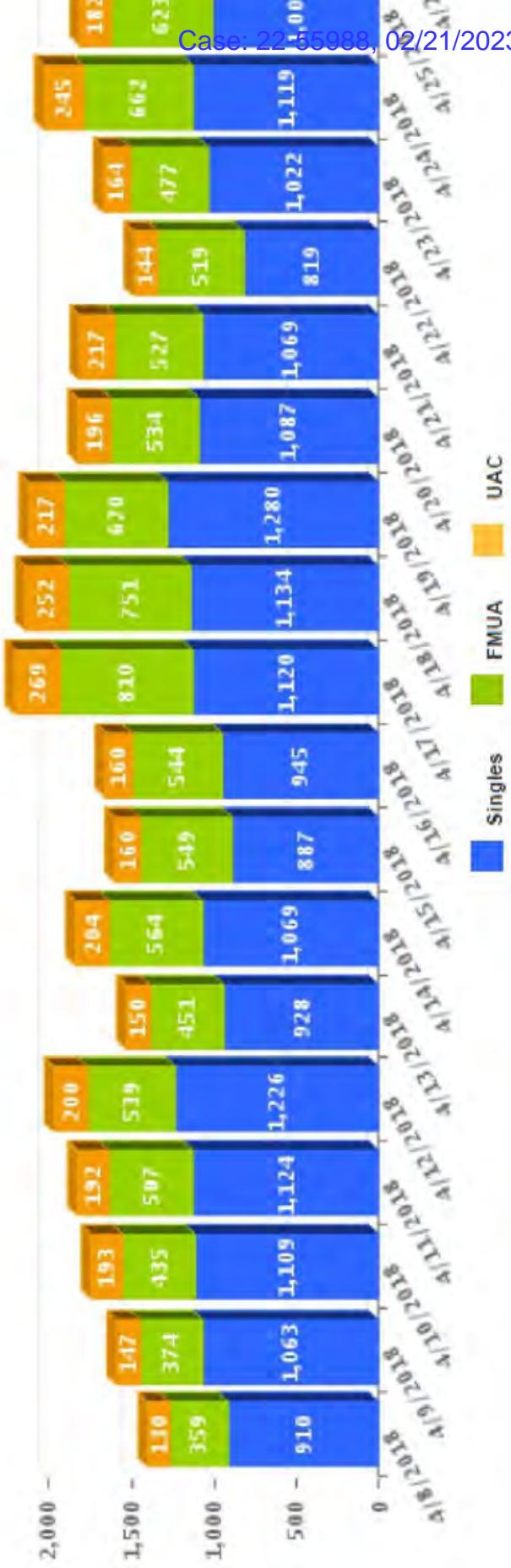
*RGV sector capacity and in-custody numbers include the CPC figures
**Tucson sector capacity and in-custody numbers include the TCC figures



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USBP Northern Border TSM Outbound Report (FYTD)

Report Run Date: 4/29/2018 6:44:36 AM

Preliminary Data and Subject to Change

Outbound by Sector/Month

	October	November	December	January	February	March	April
BLW	90	69	63	53	56	49	32
BUN	2	0	0	0	0	0	0
GFN	67	38	22	20	31	53	33
HLT	0	0	0	0	0	0	2
HVM	2	1	1	1	8	1	0
SWB	1,652	1,500	1,505	1,260	1,307	1,634	1,802
Total	1,813	1,608	1,591	1,334	1,402	1,737	1,849

**Homeland
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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 88 IN SUPPORT OF
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POINTS AND AUTHORITIES IN
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Defendants.

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Case 3:17-cv-02366-BAS-KSC Document 767-48 Filed 09/30/21 PageID.67278 Page 3 of 3

From: MCALEENAN, KEVIN K
Sent: Sunday, April 29, 2018 3:23 PM

To: FLORES, PETE ROMERO; Owen, Todd C (AC OFO); PROVOST, CARLA (USBP); SCOTT, RODNEY S; VILLAREAL, ROY D; GONZALEZ, CARLOS L
CC: VITIELLO, RONALD D (USBP); FLANAGAN, PATRICK S
Subject: RE: Checking in

Thank you. What is current capacity level?

From: FLORES, PETE ROMERO
Sent: Sunday, April 29, 2018 3:20:52 PM
To: MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); PROVOST, CARLA (USBP); SCOTT, RODNEY S; VILLAREAL, ROY D; GONZALEZ, CARLOS L
Cc: VITIELLO, RONALD D (USBP); FLANAGAN, PATRICK S
Subject: RE: Checking in

Sir,

- No caravan subjects have arrived at the San Ysidro Port
- INM has stated they will hold subjects at the entrance to their facility and allow small groups to the limited line so we can notify the subjects we are at capacity.
- INM will allow the subjects to stay at the limit line on the Mexican side for a duration time and ask that they proceed back to the entrance.
- [REDACTED]

Pete Flores
Director, Field Operations
San Diego, CA
U.S. Customs and Border Protection
[REDACTED]

From: MCALEENAN, KEVIN K
Sent: Sunday, April 29, 2018 12:07 PM
[REDACTED]

Subject: Checking in

How is everything looking?

MAYER BROWN LLP
Matthew H. Marmolejo (CA Bar No. 242964)
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Additional counsel listed on next page
Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs,

V.

Chad F. Wolf¹ *et al.*

Defendants

**EXHIBIT 29 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT OF THEIR MOTION
TO EXCLUDE DEFENDANTS'
PURPORTED EXPERT
TESTIMONY**

**EXHIBIT 93 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Case 3:17-cv-02366-BAS-KSC Document 767-6 Filed 09/30/21 PageID.67053 Page 3 of 4

From: AKI, SIDNEY K
Sent: Thursday, May 24, 2018 7:23 PM
To: CARRILLO, SALLY R; HOOD, ROBERT W
Subject: FW: Info needed by 1600

Fyi.

From: FLORES, PETE ROMERO
Sent: Thursday, May 24, 2018 4:05:30 PM
To: AKI, SIDNEY K; HERNANDEZ, ROSA E; SALAZAR, DAVID A
Cc: ARMIJO, JOHNNY L; MARICICH, ANNE L
Subject: FW: Info needed by 1600

FYSA – this is what I sent to HQ for the EAC.

Pete Flores
 Director, Field Operations
 San Diego, CA
 U.S. Customs and Border Protection
 Work Phone: [REDACTED]
 Fax: [REDACTED]

From: FLORES, PETE ROMERO
Sent: Thursday, May 24, 2018 10:49 AM
To: HOWE, RANDY L <[REDACTED]>
Cc: ' [REDACTED] <[REDACTED]>; MARICICH, ANNE L <[REDACTED]>; ARMIJO, JOHNNY L <[REDACTED]>
Subject: RE: Info needed by 1600

Randy,

We would need [REDACTED] positioned at [REDACTED] [REDACTED] our pedestrian facilities for all total of [REDACTED]

San Ysidro	
Ped West	[REDACTED] officers x [REDACTED] shifts = [REDACTED]
Ped East	[REDACTED] officers x [REDACTED] shifts = [REDACTED]
Otay Mesa	
Ped	[REDACTED] officers x [REDACTED] shifts = [REDACTED]
Tecate	
Ped	[REDACTED] officers x [REDACTED] shifts = [REDACTED]
Calexico	
West Ped	[REDACTED] officers x [REDACTED] shifts = [REDACTED]
East Ped	[REDACTED] officers x [REDACTED] shifts = [REDACTED]
Andrade	
Ped	[REDACTED] officers x [REDACTED] shifts = [REDACTED]

The numbers that would have be held at or near the limit line would vary significantly at each port and throughout the year. However we would see the biggest impact at the port of San Ysidro followed by Calexico and Otay Mesa. Under normal circumstances and not accounting of volume influxes (caravans, etc.) we could be holding 110-120 subjects a day at the limit line with that number increasing each day.

Based on previous/current flows and assets being dedicated to the processing and detention we estimate the following changing would occur based on focusing on priorities;

San Ysidro

Current	Intake 80-100 individuals a day
Future	Intake 20-40 individuals a day

Calexico

Current	Intake 30-40 individuals a day
Future	Intake 10-20 individuals a day

Otay Mesa

Current	Intake 10-30 individuals a day
Future	Redirected to San Ysidro for processing

Case 3:17-cv-02366-BAS-KSC Document 767-6 Filed 09/30/21 PageID.67054 Page 4 of 4

Pete Flores
Director, Field Operations
San Diego, CA
U.S. Customs and Border Protection
Work Phone: [REDACTED]
Fax: [REDACTED]

From: HOWE, RANDY J
Sent: Thursday, May 24, 2018 10:08 AM
To: FLORES, PETE ROMERO - [REDACTED]; MARICICH, ANNE L. [REDACTED]; RAMIREZ, GUADALUPE H. [REDACTED]; MANCHA, HECTOR [REDACTED]; PROVENCIO, RAY HIGGERSON, DAVID P. [REDACTED]; SKINNER, BRADD M. [REDACTED]
Cc: CAMPBELL, CARLS [REDACTED]
Subject: FW: Info needed by 1600
Importance: High

DFOs: See EAC request below for a Secretary meeting today. Any questions please call me.

Randy J. Howe
Executive Director, Operations
Office of Field Operations
U.S. Customs and Border Protection
[REDACTED] (Office)
[REDACTED] (Cell)

From: Owen, Todd C (AC OFO)
Sent: Thursday, May 24, 2018 12:59 PM
To: HOWE, RANDY J. [REDACTED]; CAMPBELL, CARLS [REDACTED]
Cc: BORDEAUX, TYESHA [REDACTED]
Subject: Info needed by 1600
Importance: High

Randy/Shane,

- For an S1 meeting this afternoon, S1's office is asking if we fully implement the priority based Que Management option – what's a rough magnitude of CBP folks that will be needed to man the boundary line? What's a rough estimate of the number of folks that would likely be turned away per day?

Can you please contact the 4 SWB DFOs and get a very rough estimate by field office?

Thank you.

Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs & Border Protection

MAYER BROWN LLP
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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 94 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Case 3:17-cv-02366-BAS-KSC Document 767-50 Filed 09/30/21 PageID.67284 Page 3 of 5

From: PROVENCIO, RAY
Sent: Thursday, May 24, 2018 3:50 PM
To: HOWE, RANDY J
CC: MANCHA, HECTOR
Subject: RE: Info needed by 1600

10-4.

Ray Provencio

Assistant Director of Field Operations
 Office of Field Operations – El Paso Field Office
 U.S. Customs and Border Protection
 [REDACTED]



From: HOWE, RANDY J
Sent: Thursday, May 24, 2018 1:48 PM
To: PROVENCIO, RAY <[REDACTED]>
Cc: MANCHA, HECTOR <[REDACTED]>
Subject: RE: Info needed by 1600

We reduced your estimate for this exercise to 84 CBPOs.

EAC pointed out that once vehicles and busses cross the boundary line we will not be removing migrants from vehicles and having them walk back to Mexico.

Once they cross the border they are in the US and are ours to process.

Call me if you would like to discuss.

Randy J. Howe
 Executive Director, Operations
 Office of Field Operations
 U.S. Customs and Border Protection
 [REDACTED]

From: PROVENCIO, RAY
Sent: Thursday, May 24, 2018 1:41 PM
To: HOWE, RANDY J <[REDACTED]>
Cc: MANCHA, HECTOR <[REDACTED]>
Subject: FW: Info needed by 1600
Importance: High

Based on the request and absent unforeseen challenges (e.g. protests, riots, rushing the border, entering via commercial facilities, etc.), the below is a general estimate of what would be needed each shift, per location:

	Mid	Day	Eve	Total
<u>Port of El Paso</u>				
PDN	10	10	10	30
BOA	10	10	10	30
YSL	10	10	10	30
			90	

<u>Port of Santa Teresa</u>	0	6	6	12

Port of Tornillo

<u>Port of Ft. Hancock</u>	0	6	6	12
	0	2	2	4

<u>Port of Columbus</u>	6	6	6	18
	6	6	6	18

<u>Port of Antelope Wells</u>	0	2	0	2
	0	2	0	2

<u>Port of Presidio</u>	6	6	6	18
	6	6	6	18

<u>Port of Albuquerque</u>	n/a	n/a	n/a	0
	n/a	n/a	n/a	0

EPFO Total	156
------------	------------

The attached power point provides a bit more detail regarding each crossing. Based on the current trend regarding inadmissible aliens and/or those requesting CF, we can anticipate a 60% reduction (i.e. those turned away) in those processed; which, based on previous capacity numbers [REDACTED] we could anticipate 234 turned away per day. We generated that number by taking a snapshot of the busiest port (El Paso), using April 22-25 and comparing it to May 20-23, 2018.

Ray Provencio
 Assistant Director of Field Operations
 Office of Field Operations – El Paso Field Office
 U.S. Customs and Border Protection
 [REDACTED]



From: HOWE, RANDY J
Sent: Thursday, May 24, 2018 11:08 AM
To: FLORES, PETE ROMERO <[REDACTED]>; MARICICH, ANNE L <[REDACTED]>; RAMIREZ, GUADALUPE H <[REDACTED]>; MANCHA, HECTOR <[REDACTED]>; PROVENCIO, RAY <[REDACTED]>; HIGGISON, DAVID P <[REDACTED]>; SKINNER, BRADD M. <[REDACTED]>
Cc: CAMPBELL, CARLS <[REDACTED]>
Subject: FW: Info needed by 1600
Importance: High

DFOs: See EAC request below for a Secretary meeting today. Any questions please call me.

Randy J. Howe
 Executive Director, Operations
 Office of Field Operations
 U.S. Customs and Border Protection
 [REDACTED]

From: Owen, Todd C (AC OFO)
Sent: Thursday, May 24, 2018 12:59 PM
To: HOWE, RANDY J <[REDACTED]>; CAMPBELL, CARLS <[REDACTED]>
Cc: BORDEAUX, TYESHA <[REDACTED]>
Subject: Info needed by 1600
Importance: High

Case 3:17-cv-02366-BAS-KSC Document 767-50 Filed 09/30/21 PageID.67286 Page 5 of 5

Randy/Shane,

- For an S1 meeting this afternoon, S1's office is asking if we fully implement the priority based Que Management option – what's a rough magnitude of CBP folks that will be needed to man the boundary line? What's a rough estimate of the number of folks that would likely be turned away per day?

Can you please contact the 4 SWB DFOs and get a very rough estimate by field office?

Thank you.

*Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs & Border Protection*

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 95 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Case 3:17-cv-02366-BAS-KSC Document 767-51 Filed 09/30/21 PageID.67289 Page 3 of 3

From: RAMIREZ, GUADALUPE H
Sent: Thursday, May 24, 2018 2:31 PM
To: HOWE, RANDY J
Subject: RE: Info needed by 1600

Sir,

The Tucson Field Office would require approximately 44 CBPOs per day to man the border line. If current volumes remain consistent we would be turning back roughly 65 a day, about 40 in Nogales and 25 at San Luis I.

Lupe

From: HOWE, RANDY J
Sent: Thursday, May 24, 2018 10:08 AM
To: FLORES, PETE ROMERO <[REDACTED]>; MARICICH, ANNE L <[REDACTED]>; RAMIREZ, GUADALUPE H <[REDACTED]>; PROVENCIO, RAY <[REDACTED]>; HIGGERSON, DAVID P <[REDACTED]>; SKINNER, BRADD M. <[REDACTED]>
Cc: CAMPBELL, CARLS <CARL.S.CAMPBELL@cbp.dhs.gov>
Subject: FW: Info needed by 1600
Importance: High

DFOs: See EAC request below for a Secretary meeting today. Any questions please call me.

Randy J. Howe
Executive Director, Operations
Office of Field Operations
U.S. Customs and Border Protection

[REDACTED]

From: Owen, Todd C (AC OFO)
Sent: Thursday, May 24, 2018 12:59 PM
To: HOWE, RANDY J <[REDACTED]>; CAMPBELL, CARLS <[REDACTED]>
Cc: BORDEAUX, TYESHA <[REDACTED]>
Subject: Info needed by 1600
Importance: High

Randy/Shane,

- For an S1 meeting this afternoon, S1's office is asking if we fully implement the priority based Que Management option – what's a rough magnitude of CBP folks that will be needed to man the boundary line? What's a rough estimate of the number of folks that would likely be turned away per day?

Can you please contact the 4 SWB DFOs and get a very rough estimate by field office?

Thank you.

*Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs & Border Protection*

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Facsimile: +1.404.221.5857

Additional counsel listed on next page
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

1

Chad F. Wolf¹ *et al.*

Defendants

**EXHIBIT 22 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION TO
EXCLUDE DEFENDANTS'
PURPORTED EXPERT
TESTIMONY**

**EXHIBIT 96 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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Case 3:17-cv-02366-BAS-KSC Document 767-4 Filed 09/30/21 PageID.67044 Page 3 of 4

From: MCALEENAN, KEVIN K
Sent: Thursday, May 24, 2018 4:09 PM
To: Owen, Todd C (AC OFO); FLANAGAN, PATRICK S
Cc: VITIELLO, RONALD D (USBP); WAGNER, JOHN P; SCHORR, STEPHEN; BOYD, VALERIE S; BORDEAUX, TYESHA
Subject: RE: Today's Meeting - A few items

Please let the SI know today

From: Owen, Todd C (AC OFO)
Sent: Thursday, May 24, 2018 3:48:02 PM
To: FLANAGAN, PATRICK S
Cc: MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); WAGNER, JOHN P; SCHORR, STEPHEN; BOYD, VALERIE S; BORDEAUX, TYESHA
Subject: RE: Today's Meeting - A few items

Patrick,

We estimate that it would take approx. 200 officers per day to adequately secure the boundary line, and we would turn away approx. 650 subjects a day. The number waiting in MX would grow each day and begin to strain those local MX border communities, as we saw with the Haitians in Tijuana in 2016.

Todd C. Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs & Border Protection

From: FLANAGAN, PATRICK S
Sent: Thursday, May 24, 2018 12:55 PM
To: Owen, Todd C (AC OFO) <TODD.OWEN@CBP.DHS.GOV>
Cc: MCALEENAN, KEVIN K <[REDACTED]>; VITIELLO, RONALD D (USBP) <[REDACTED]>; WAGNER, JOHN P <[REDACTED]>; SCHORR, STEPHEN <[REDACTED]>; BOYD, VALERIE S <[REDACTED]>; BORDEAUX, TYESHA <[REDACTED]>
Subject: FW: Today's Meeting - A few items

EAC,

Valerie will update the language in the S1 memo. As we discussed, we will amend the memo to reflect this effort will initiate under a 30 day pilot, and S1 will reassess at the 30 day mark.

Photos you are taking care of, and will bring to the meeting.

Do you have an estimate for his third question? On the necessary manpower for queue management?

Thank you.

V/R
Patrick

Patrick Flanagan
[REDACTED]

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From: Wolf, Chad
Sent: Thursday, May 24, 2018 12:22 PM
To: FLANAGAN, PATRICK S
Cc: MCALEENAN, KEVIN K <[REDACTED]>
Subject: Today's Meeting - A few items

Patrick,

A couple of items –

- Need to amend the S1 memo on POE to include 30 day pilot language.
- Photos for today's meeting
- If we implement the Que Management option – what's a rough magnitude of CBP folks that will be needed to man the boundary line? What's a rough estimate of the number of folks that would likely be turned away per day during the pilot period?

I'll be at the RRB at 2pm. Would like to review these at that point. Thanks.

Case 3:17-cv-02366-BAS-KSC Document 767-4 Filed 09/30/21 PageID.67045 Page 4 of 4

Chad F. Wolf
Chief of Staff
Department of Homeland Security

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 99 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants.

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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From: LONGORIA, FRANK S
Sent: Friday, July 6, 2018 4:00 PM
To: CHAVEZ, JUAN; FLORES, ALBERTO A; GONZALEZ, DAVID JOHN; GUERRA, ANDRES; MERCADO, DANIEL; ORTIZ, TATER; RODRIGUEZ, CARLOS; WEAVER, WALTER W; CANTU, JAVIER N; GALVAN, JORGE; PARKER, BOB B; SULLIVAN, JOHN D
Cc: HIGGERSON, DAVID P; SKINNER, BRADD M; CRAWFORD, EUGENE E; TABOADA, ARMANDO; HARRIS, RODNEY H
Subject: Queue Management: 30 Days In

Port Directors:

It's been approximately 30 days since we initiated the Queue Management Strategy and shifted from "detention" capacity to "operational" capacity. We'll need to provide OFO an assessment in the very near future on the impact the strategy has had at LFO ports of entry. Therefore, please provide a response to each of the items below by COB Monday, July 9, 2018.

1. Identify each international crossing you are conducting Queue Management at.
2. Are you assigning officers at your Queue Management point(s) 24/7?
3. Regarding processing undocumented aliens based on operational capacity:
 - a. How many officers assigned to passport control were reassigned to enforcement operations on a daily basis?
 - b. Any enforcement actions directly linked to the reassignment of passport control officer to enforcement operations? If yes, provide a brief summary of the enforcement action.
4. Has your overtime expenditures increased/decreased? If yes, how much?
5. Any national security achievements?
6. Any other measureable impact (positive or negative) to your operations?

We'll compile your responses and provide an overall LFO assessment. It's critical that you provide an honest assessment on the impact (good or bad) the Queue Management Strategy has had to your operations.

Please call me at the numbers indicated below if you have any questions.

Frank S. Longoria
Assistant Director Field Operations
Office of Field Operations
Laredo Field Office
[REDACTED]

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SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 103 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

REDACTED VERSION

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

Case 3:17-cv-02366-BAS-KSC Document 535-105 Filed 09/04/20 PageID.48597 Page 2 of 72

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Page 1

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AL OTRO LADO, INC, ET AL.)
)
) CIVIL ACTION NO.
VS.) 17-CV-02366-BAS-KSC
)
KEVIN K. MCALLENAN, ET AL.)

VIDEOTAPED DEPOSITION OF
STEPHANIE LEUTERT
AUGUST 11, 2020
DEPOSITION VIA WEBEX

ANSWERS AND DEPOSITION OF STEPHANIE
LEUTERT, produced as a witness at the instance of
the Defendant, taken in the above-styled and
-numbered cause on AUGUST 11, 2020, at 10:37 a.m.,
before CHARIS M. HENDRICK, a Certified Shorthand
Reporter in and for the State of Texas, witness
located in the city of Austin, County of Travis and
State of Texas, in accordance with the Federal
Rules of Civil Procedure and the provisions stated
on the record or attached hereto.



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21 FOR THE DEFENDANTS:

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23 MR. ALEXANDER HALASKA
24 MR. DHRUMAN SAMPAT
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26 ALSO PRESENT: MR. JOSH PINKUS - VIDEOGRAPHER

27

28

29

30

31



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1 Q. (By Mr. Nazarov) Okay. So the data you
2 had on counter-narcotics programs and staffing
3 decisions related to counter-narcotics programs,
4 you did not use that data; is that correct?

5 MR. MEDLOCK: Objection. Asked and
6 answered, misstates prior testimony, vague.

7 A. I considered that data, the data that I
8 had that included elements of what you are saying.
9 I just -- I chose not to use it because it wasn't
10 useful in answering the questions I was asked to
11 answer.

12 Q. (By Mr. Nazarov) Is the methodology you
13 employed able to demonstrate and consider resources
14 of staffing that may be needed to be allocated to
15 run counter-narcotics operations?

16 MR. MEDLOCK: Objection. Asked and
17 answered, vague, compound.

18 A. Again, I considered data related to some
19 of the elements of what you're saying, but I was
20 unable to use it because it did not allow me to
21 answer the questions I was asked to answer.

22 Q. (By Mr. Nazarov) And that's a fair
23 answer.

24 Is the methodology you employed in
25 your merits report able to demonstrate how staffing

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1 and resources are made by OFO to protect economic
2 security?

3 And let me define economic security
4 for you. You probably know it, but I will just
5 throw it out there. It's trade and cargo
6 processing, enforcing trade laws, protecting
7 agriculture and addressing anti-competitive
8 elements in the supply chain.

9 MR. MEDLOCK: Object to the form.

10 Asked and answered.

11 A. I, again, looked at data relating to the
12 elements of what you just said. I was unable to
13 include it in the report because it did not allow
14 me to answer the questions I was asked to answer.

15 Q. (By Mr. Nazarov) Is the methodology you
16 employed in your report able to evaluate how
17 staffing and resources are allocated to facilitate
18 trade and travel facilitation?

19 MR. MEDLOCK: Object to the form,
20 vague, asked and answered.

21 A. Again, I considered this data -- these
22 data sources. I even tried to build a model that
23 could include it all. I was unable to do so. And
24 I did not find that it allowed me to answer the
25 questions that I wanted to answer because CBP does

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1 not collect these type of data in a way that allows
2 you to answer questions relating to metering at
3 ports of entry in asylum processing.

4 Q. (By Mr. Nazarov) You have to agree that
5 neutralizing national security threats and running
6 counter-narcotics operations are an important
7 part -- a critical part of the CBP mission?

8 MR. MEDLOCK: Objection. Form, vague.

9 A. Correct.

10 MR. MEDLOCK: Also compound.

11 A. Correct.

12 Q. (By Mr. Nazarov) I'm sorry. I didn't
13 hear the answer.

14 A. Correct.

15 Q. You would have to agree that economic
16 security and trade and travel facilitation are also
17 critical to the larger border missions?

18 MR. MEDLOCK: Objection. Form,
19 compound, vague.

20 A. Correct.

21 Q. (By Mr. Nazarov) So, really, in answering
22 the question that you were set out to answer, this
23 methodology only focuses on the small sliver of
24 what goes on at a port of entry; is that correct?

25 MR. MEDLOCK: Objection. Asked and



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1 answered, misstates prior testimony, vague.

2 A. My focus is understanding metering at
3 ports of entry along the US-Mexico border. In
4 doing so, I used the only data source that allows
5 me to get that picture. It is also the only data
6 source that CBP collects to provide an
7 understanding of metering and the one that CBP
8 leadership uses to get a sense of metering in ports
9 of entry.

10 That is ultimately why I used it. I
11 did consider these other data sources. I was
12 interested to see if there was a way that I could
13 reconstruct what was going on. I wasn't able to do
14 that, and I later learned that CBP in this sixth
15 interrogatory also noted that they could not
16 reconstruct what was going on at a port of entry at
17 any given time.

18 And with that, I went back to using
19 the data that CBP uses to look at metering, and
20 that's how I constructed and wrote my report.

21 Q. (By Mr. Nazarov) In your data, in your
22 conclusions are focused only on the processing of
23 asylum-seekers; is that correct?

24 A. Yes, it focuses on the processing of
25 asylum-seekers.

Case 3:17-cv-02366-BAS-KSC Document 535-105 Filed 09/04/20 PageID.48655 Page 60
of 72

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1 Q. I want to take a look -- I want to go to
2 your report, and I have a few questions about that.

3 A. Okay.

4 Q. I want to --

5 MR. MEDLOCK: Which report are you
6 referring to, Ari? I just want to make sure.

7 MR. NAZAROV: Yes. That makes a lot
8 of sense. I'm referring to Exhibit A, which is
9 your merits report.

10 Q. (By Mr. Nazarov) I want to go back and
11 look at Page 73. That is Section F, titled
12 Operational Capacity Does Not Justify the Turn-Back
13 Policy. Do you see that?

14 A. Yes.

15 Q. Do you want to take a minute to read over
16 that, or can I go ahead and -- why don't I ask the
17 question, and if you think you need to read over
18 it, then you may take the time to do so.

19 If the judge in this case disagrees
20 with your conclusion and finds that operational
21 capacity is a legitimate explanation, how does that
22 affect your conclusion for the report?

23 MR. MEDLOCK: Objection. Incomplete
24 hypothetical, calls for a legal conclusion and
25 vague.



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SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 104 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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From: SKINNER, BRADD M.
Sent: Friday, July 6, 2018 7:35 PM
To: HIGGERSON, DAVID P
Subject: FW: Metrics Reminder

Sir, just fyi I spoke w/ Ryan Koseor earlier today and he relayed HQ standing down for now on developing the queue management metrics, good news. The reference to the 30 day strategy in his message relates to the focus on priority mission sets and queue management which as I understand it has come and gone now. The view is that we s/b processing up to 70% of detention / holding capacity depending upon what is coming at us on any given day. ADFO Longoria is asking the PD's for an update on queue management and what is trending at the ports, will discuss further with you on Monday.... Had a good discussion with Brownsville to prep for the Congressional visit on Monday; they will follow a very similar flow to Hidalgo tours with show and tell displays available at different stations; Tater knows to keep it pithy and on point. ... Busy day but all to the good. V/r, Bradd

Bradd Skinner
Deputy Director
Laredo Field Office
Office of Field Operations
U.S. Customs and Border Protection
Office: [REDACTED]
Cell: [REDACTED]

From: KOSEOR, RYAN M
Sent: Friday, July 6, 2018 1:17 PM
To: SKINNER, BRADD M. [REDACTED]; ARMIJO, JOHNNY L [REDACTED]
Subject: FW: Metrics Reminder

Good Afternoon,

Here is the email I sent to the DFOs this morning.

Thanks,

*Ryan Koseor
Deputy Commander
U.S. Customs and Border Protection
Migration Crisis Action Team (MCAT)
Cell: [REDACTED]
MCAT. [REDACTED]*

From: KOSEOR, RYAN M
Sent: Friday, July 6, 2018 10:24 AM

Case 3:17-cv-02366-BAS-KSC Document 767-55 Filed 09/30/21 PageID.67316 Page 4 of 5

To: PETE ROMERO FLORES [/>; ANNE L MARICICH [/>; RAMIREZ GUADALUPE H < [REDACTED] MANCHA, HECTOR < [REDACTED] >; HIGGERTON, DAVID P. [REDACTED]
Subject: RE: Metrics Reminder

All,

Since the ports were not able to fully implement this strategy for the entire 30 days, this request has been placed on hold. I will be following up with XD Howe upon his return for further guidance.

Thanks,

Ryan Koseor
Deputy Commander
U.S. Customs and Border Protection
Migration Crisis Action Team (MCAT)
Cell: [REDACTED]
MCAT: [REDACTED]

From: KOSEOR, RYAN M
Sent: Thursday, July 5, 2018 3:27 PM
To: PETE ROMERO FLORES [/>; ANNE L MARICICH [/>; RAMIREZ, GUADALUPE H < [REDACTED] >; HIGGERTON, DAVID P. [REDACTED]
Subject: Metrics Reminder

Good Afternoon,

I hope everyone had a safe and pleasant holiday. Just wanted to send a friendly reminder about the reporting metrics each field office is to establish. Although the final report is not due until July 18th, please have your team contact me if they have any questions or need some guidance.

Thanks,

Ryan Koseor
Deputy Commander
U.S. Customs and Border Protection
Migration Crisis Action Team (MCAT)
Cell: [REDACTED]
MCAT: [REDACTED]

Case 3:17-cv-02366-BAS-KSC Document 767-55 Filed 09/30/21 PageID.67317 Page 5 of 5

From: HOWE, RANDY J
Sent: Monday, June 18, 2018 2:40 PM
To: FLORES, PETE ROMERO ; [REDACTED] MARICICH, ANNE L
[REDACTED] RAMIREZ, GUADALUPE H <[REDACTED]> [REDACTED] MANCHA,
HECTOR <[REDACTED]> HIGGISON, DAVID P <[REDACTED]> [REDACTED] >
Cc: DRAGANAC, JOSEPH <[REDACTED]> CAMPBELL, CARL S <[REDACTED]>
Subject:

DFOs: Please establish some metrics applicable to your AOR...narcotics interdictions, reductions in wait times, OT savings, other cost savings, national security achievements and any other measureable impact. Any questions please call me.

Randy J. Howe
Executive Director, Operations
Office of Field Operations
U.S. Customs and Border Protection
[REDACTED] (Office)
[REDACTED] (Cell)

Case 3:17-cv-02366-BAS-KSC Document 535-115 Filed 09/04/20 PageID.48696 Page 1 of 201

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27 **UNITED STATES DISTRICT COURT**
28 **SOUTHERN DISTRICT OF CALIFORNIA**

29 Al Otro Lado, Inc., *et al.*,

30 Case No.: 17-cv-02366-BAS-KSC

31 Plaintiffs,

32 v.

33 Chad F. Wolf,¹¹² *et al.*,

34 Defendants.

35 **EXHIBIT 113 IN SUPPORT OF**
36 **PLAINTIFFS' MEMORANDUM OF**
37 **POINTS AND AUTHORITIES IN**
38 **SUPPORT OF THEIR MOTION**
39 **FOR SUMMARY JUDGMENT**

40 ¹¹² Acting Secretary Wolf is automatically substituted for former Acting Secretary
41 McAleenan pursuant to Fed. R. Civ. P. 25(d).

Case 3:17-cv-02366-BAS-KSC Document 535-115 Filed 09/04/20 PageID.48697 Page 2 of 201

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Page 1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
(San Diego)

AL OTRO LADO, INC., ET AL.,)
)
Plaintiffs,)
)
vs.) CASE NO.
) 3:17-cv-02366-BAS-KSC
CHAD F. WOLF, Acting)
Secretary of Homeland)
Security, in his official)
capacity, et al.,)
)
Defendants.)
_____)

VIDEO-RECORDED VIRTUAL DEPOSITION OF
ERIKA DACRUZ PINHEIRO
TIJUANA, MEXICO
THURSDAY, JUNE 18, 2020

STENOGRAPHICALLY REPORTED BY:

Valerie C. Rodriguez
CSR No. 12871 (orig 6980)



Page 3

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25			

1 THE MAGNA TECH: It's the call-in line
2 number. Folks on the call-in lines, you have to
3 mute your conference phone.

4 We can still hear it.

5 Sol, I believe you're able to as host --

6 MS. WALTERS: I think I know who it is.

7 I'll send a text.

8 THE MAGNA TECH: Sol, you might be able
9 to mute them also because you're host.

10 THE VIDEOGRAPHER: I just muted both
11 call-in users.

12 THE WITNESS: I can't hear. Sorry, Alex,
13 if you can just repeat that one more time.

14 MR. HALASKA: Yeah, let me ask it again
15 just to account for the conference.

16 BY MR. HALASKA:

17 Q In 2017, when the medical/legal program
18 began, approximately how much of Al Otro Lado's
19 attorney or staff hours were dedicated to
20 implementing a program?

21 A God, so many hours, but not enough to do
22 it. Not enough -- we didn't have enough time to
23 properly implement it because metering, basically,
24 because we -- like, I just want to go back to
25 another answer I had given when I talked about the

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1 difficulties of transitioning our programs in
2 Tijuana to address turnbacks and later metering.

3 And it was unfortunate that we were
4 unable to effectively implement the medical/legal
5 program, given staffing and resource constraints
6 because of the demands that were caused by turnbacks
7 on the border.

8 But I mean, it was -- I spent a lot of
9 time trying to set that program up. Hours. I don't
10 even know. Let me think. I mean, it was a lot.
11 Like meetings and trying to set up the office and
12 talking to funders and applying for funding. Oh,
13 God, a million stakeholder meetings with the other
14 people on the Robert Wood Johnson Grant. Just a
15 lot.

16 One of us tried to be there every day to
17 try to set it up, but it just wasn't possible. And
18 it's difficult now thinking back because it was
19 several years ago to really give like a number of
20 hours.

21 But more broadly, when we established it,
22 it was me and Nora in LA, right, working on it. But
23 we were both going down to TJ, especially I was
24 going down more often.

25 Then we eventually hired -- when we got

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1 the Robert Wood Johnson Grant, eventually hired
2 another person that was working on it full-time.
3 That was Ricardo. But...

4 Yeah, it's hard to -- I can't -- it's
5 really hard for me to give an estimate of like
6 number of hours. I can just describe sort of what I
7 just described.

8 Q Okay. Today, do you feel like Al Otro
9 Lado has a greater capacity to implement its
10 medical/legal program than it did back in 2017 when
11 it began?

12 MS. WEBSTER: Objection, foundation.

13 MR. HALASKA: You can go ahead and
14 answer.

15 THE WITNESS: Can you repeat the
16 question?

17 MR. HALASKA: Yeah, sure. Well,
18 actually, can you just read it back.

19 (The following question was re-read:
20 "Today, do you feel like Al Otro Lado has
21 a greater capacity to implement its
22 medical/legal program than it did back in
23 2017 when it began?")

24 THE WITNESS: It's hard to compare the
25 program in 2017 to what it is now, because we

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1 actually lost the first funding source because we
2 weren't able, we didn't have capacity to properly
3 implement it, so the Robert Wood Johnson Grant that
4 I referenced earlier. And then had to obtain
5 separate funding to try to continue -- to fulfill
6 our mission in Los Angeles as related to the
7 medical/legal program.

8 So the program has changed over time, and
9 the funding sources are different. So I think it's
10 difficult to compare the two.

11 BY MR. HALASKA:

12 Q You said that in 2017, it seemed that Al
13 Otro Lado's work in response to address metering
14 kind of took away from its ability to implement its
15 medical/legal program.

16 Is that a fair characterization?

17 A Yes.

18 Q Is that still happening today -- sorry,
19 let me ask it a different way.

20 Do you still feel the same way today with
21 regard to metering --

22 A Yes.

23 Q -- and the implementation of the
24 medical/legal program?

25 A Yes, continues to be a struggle.

1 Q Why is that?

2 A The volume of migrants who have been
3 metered specifically in Tijuana is, I believe,
4 hovering somewhere around 10,000. And it's been
5 that way for a while.

6 We are constantly having to pull
7 resources from our other offices to address the
8 needs of particularly vulnerable migrants who have
9 been metered. Specifically those who are in
10 imminent danger of harm or death in Tijuana.

11 Those by definition are emergency
12 situations that constantly -- it's difficult to plan
13 for them. So we're constantly having to shift
14 resources around to address those emergency
15 situations.

16 I think also just, in terms of the
17 organizational capacity to even ask for grants to
18 support certain programs, you know, we have a
19 limited capacity to do that. And because of the
20 volume of work on the border, we necessarily need to
21 shift resources toward trying to get funding to
22 support it.

23 And the other, just a more foundational
24 issue is like, there are other non-profits in
25 Los Angeles who we collaborate -- with whom we

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1 collaborate to assist our clients in Los Angeles.
2 And we don't -- that doesn't really exist in
3 Tijuana. We're -- now there are more organizations
4 here, but we're essentially the only organization
5 offering the types of services we do and dealing
6 with these emergencies that come up with respect to
7 Asylum seekers who have been metered.

8 So it's sort of like easier, I guess, in
9 a way, to find somebody else to help the people that
10 we would serve under the medical/legal program in
11 Los Angeles. And so that -- we don't have that
12 luxury in Tijuana. So we have no choice but to
13 divert different resources to address emergency
14 situations.

15 Q What sorts -- let me go back. You said
16 that the organization is diverting resources from
17 other programs to dedicate to its Tijuana
18 operations; right?

19 A Yes.

20 Q Where are those resources being pulled
21 from?

22 A So our -- it's staff resources more than
23 anything. So we -- like I mentioned earlier, we
24 have employees based in San Diego or Los Angeles
25 working on these other programs. And we will often

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1 have to pull in staff to address emergency or other
2 situations, even if we're just having a large-scale
3 clinic, to help with cases of individuals who have
4 been metered. It becomes more urgent when they're
5 in imminent risk of harm or even like serious
6 medical cases.

7 So for example, like we in the
8 Los Angeles office built a particular expertise in
9 working with clients through the medical/legal
10 program who are experiencing medical emergencies or
11 mental health crises or some other disability that
12 affects their ability to communicate their rights.

13 We are also encountering individuals who
14 fall into those categories who have been metered.
15 So we would ask individuals who have that expertise
16 from working in the LA programs to assist with
17 following who have been metered who are facing
18 similar medical challenges, if that makes sense.

19 Again, organizational orientation
20 overall, just the volume -- I mean, again, I think
21 it's around 10,000 people who are waiting in Tijuana
22 alone here on the list. It might be a little bit
23 lower. I haven't seen the exact numbers, but on
24 average, it's been around 10,000 for a while.

25 The sheer volume of cases we're seeing,

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1 it's really like we're identifying hundreds of
2 people who are particularly vulnerable. So it's
3 just a constant battle to try to meet those needs
4 with limited, limited resources in the organization.

5 MR. HALASKA: Kevin, can you please pull
6 up the document, 22830.

7 MR. HALASKA: Ms. Pinheiro, this document
8 is about 25 pages. You're, of course, free to
9 review the entire thing, but I'll represent to you
10 that the scope of my questions are really just going
11 to be about kind of the last three pages.

12 THE WITNESS: Okay.

13 MR. HALASKA: We'll mark this as
14 Exhibit 4.

15 (Pinheiro Exhibit 4 was marked for
16 identification.)

17 (Document review.)

18 MS. WEBSTER: Alex, we did not receive
19 this document.

20 MR. HALASKA: I will email it to you.

21 MS. WEBSTER: In the box folder.

22 Thank you.

23 (Continued document review.)

24 MS. WEBSTER: We have not received it
25 yet.

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1 several of the responses I had previously given
2 regarding the need for us to divert resources away
3 from other programming, toward our work at the
4 borders, so they could address the issues caused by
5 the Turnback Policy and other unlawful practices.

6 BY MR. HALASKA:

7 Q Anything else?

8 A I mean, it's -- I think that's a summary.

9 Q Is there anything else you would want to
10 include in the summary?

11 A Well, I can reiterate or touch upon some
12 of the answers I had given previously. Would you
13 like me to do that?

14 Q Please.

15 A All right. Well, at the beginning of the
16 Turnback Policy, we had to transition our programs
17 from largely group orientation format toward more
18 individualized representation, which required
19 significant investment of staff time and other
20 resources in transitioning our materials, creating
21 an entirely new volunteer recruitment and training
22 system, investing in case management so we could
23 track individual cases, changing client-facing
24 materials, et cetera, et cetera.

25 And then just, when someone is turned

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1 back and they are at imminent risk of being harmed
2 or killed in Tijuana, it really requires us to
3 respond in an emergency fashion by, in accordance
4 with our organizational mission, providing and
5 coordinating other types of services like emergency
6 housing or social services for folks that are stuck
7 in Tijuana.

8 It's continued to be a strain on our
9 organizational resources due to those issues,
10 especially the emergency issues that come up with
11 folks who have been metered. It's also posed an
12 enormous challenge recruiting volunteers, willing
13 and able to work longer term on cases of individuals
14 who have been metered or turned back and are stuck
15 in Tijuana.

16 Yeah, there's a host of issues just like
17 that. And then the resources that have to go into
18 documentation, because as you know, there was never
19 really, especially at the beginning, a formal policy
20 or practice change announced. This is something
21 that we learned through monitoring, through
22 interviewing, and so we had to change all of our
23 screening tools to make sure that we were
24 documenting what was happening at the port of entry
25 accurately so that we could accurately communicate



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1 that to Asylum seekers who received our services.

2 We had to divert resources to file
3 complaints.

4 We had to -- oh, there's a lot of issues.

5 I'm thinking back, too, to like the medically
6 vulnerable people, for example, who were metered and
7 all the resources that we had to expend to ensure
8 that we could coordinate services for them,
9 especially when people have more serious or urgent
10 medical needs.

11 When someone was suffering from post
12 traumatic stress disorder, for example, and still
13 facing immediate risk of harm in Tijuana, the
14 resources that had to be expended to ensure that
15 those people are put with mental health services.

16 There's a host of issues that come up
17 when trying to address the human impact of metering
18 and the Turnback Policy on the Asylum seekers that
19 we serve.

20 Q For the things that Al Otro Lado would be
21 doing that isn't right now because it's dedicating
22 these resources in responding to metering?

23 A Yes.

24 MS. WEBSTER: Objection, vague.

25 ///

1 BY MR. HALASKA:

2 Q What are those things?

3 A Well, anytime divert resources from one
4 program or one part of the organization to another,
5 there are necessarily things that you cannot do
6 because you don't have the resources to do them.

7 I can give a specific example, which is
8 one of the many, of our deportee program. So I had
9 previously explained in some of my responses that we
10 had a fairly robust service model that helped
11 families that were separated by deportation on both
12 sides of the border, helping, for example, people
13 who were deported but had a legal right to return to
14 the United States, et cetera.

15 Really since metering, the deportee
16 program specifically, I would say only in recent
17 months have we even come close to what we used to
18 do. We had a very long period of time where we
19 simply just didn't have the resources to address the
20 issues that our deportee clients were facing.

21 We had to divert staffing to deal with
22 those who were turned back. Again, all the things I
23 just mentioned, documenting, changing materials,
24 et cetera, et cetera, like that, takes a lot of
25 staff resources, which were systematically taken

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1 away from the deportee program in particular, as
2 well as other programs like our medical/legal
3 program.

4 So with respect to the medical/legal
5 program, there was the initial delay in setting it
6 up, there was the loss of funding due to lack of
7 personnel in Los Angeles. There was later and
8 continuing to this day a lack of internal resources
9 to adequately fund raise to cover that work.

10 We receive many, many more referrals than
11 we're able to handle. Sometimes for people who are
12 really in terrible situations, like I mentioned,
13 we're working with victims of extreme child abuse,
14 including sexual violence and, you know,
15 unfortunately, because of the massive resource
16 diversion toward the border, have not always been
17 able to raise funds necessary to provide services to
18 those extremely vulnerable clients.

19 There's more examples, but the kind of
20 general contours are the same. It's just diversion
21 of resources affects most of our other programs at
22 the organization and, in turn, affects the people
23 that we otherwise would be serving.

24 Q In what way did it affect the people that
25 you'd otherwise be serving?

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1 A Well, like a baby in a coma from being
2 abused isn't going to get an attorney or a social
3 worker or, you know, other wraparound services as
4 quickly as she otherwise would because we don't have
5 the resources to fully staff or fund the program
6 that would serve that child.

7 Similarly, for deportees. If someone is
8 deported, they're the primary bread winner in their
9 family, their family in the United States is
10 suffering due to that deportation, we don't have the
11 staff or otherwise have the resources to provide the
12 level or, frankly, any services to some people. We
13 have to turn away referrals. We have to refer
14 clients out to other organizations who may or may
15 not take the case.

16 So it really does have profound
17 consequences for the clients that we serve, as well
18 as our ability to implement -- to implement our
19 organizational mission with respect to those
20 clients.

21 Q You mentioned specifically the example of
22 a baby in a coma who might not get legal
23 representation as quickly as she otherwise might; is
24 that correct?

25 A Yes.

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1 Q Is that a specific example you're
2 thinking of or is that a hypothetical?

3 A That's a specific example I'm thinking
4 of.

5 Q Okay. Has Al Otro Lado applied for
6 grants -- let me start that again.

7 Has Al Otro Lado applied for and received
8 grants that it otherwise would not have received but
9 for its work to address the metering or Turnback
10 Policy?

11 MS. WEBSTER: Objection, form. Could you
12 repeat the question?

13 MR. HALASKA: Can you read it back?

14 (The following question was re-read: "Has
15 Al Otro Lado applied for grants -- let me
16 start that again.

17 "Has Al Otro Lado applied for and
18 received grants that it otherwise would
19 not have received but for its work to
20 address the metering or Turnback
21 Policy?")

22 THE WITNESS: It's hard for me to answer
23 that, because I don't know the intention or the
24 thoughts of the foundation's individuals or others
25 providing funding to Al Otro Lado, like what their

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1 reasons for them to provide funding to us were.

2 So I don't know that I can answer that.

3 BY MR. HALASKA:

4 Q Have there been any beneficial
5 consequences of the adaptations or changes that Al
6 Otro Lado has made to respond to metering or the
7 Turnback Policy?

8 MS. WEBSTER: Objection, vague.

9 THE WITNESS: Beneficial to whom?

10 MR. HALASKA: To Al Otro Lado.

11 THE WITNESS: I think adaptations benefit
12 the clients, maybe, but I don't know that I can say
13 that the organization has benefitted from being
14 forced to divert resources in the way that we have.

15 MR. HALASKA: Kevin, can you please pull
16 up -- it's Exhibit 4, 22830.

17 (Reporter clarification.)

18 (Pinheiro Exhibit 6 was marked for
19 identification.)

20 MR. HALASKA: Can you go -- Kevin, can
21 you go to the -- where we were before, which I
22 believe was page 21. Yeah, then scroll down a
23 little bit more to the last page.

24 BY MR. HALASKA:

25 Q Ms. Pinheiro, I know you testified

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1 significant growth in revenue?

2 MS. WEBSTER: Objection, form.

3 THE WITNESS: Yes.

4 MR. HALASKA: Kevin, can you go back to
5 Exhibit 6, the second amended complaint, same
6 paragraph, paragraph ten.

7 BY MR. HALASKA:

8 Q Just to quote again, four lines down, "By
9 refusing to follow the law, Defendants have caused,
10 and will continue to cause, Class Plaintiffs and Al
11 Otro Lado concrete and demonstrable injuries and
12 irreparable harm," end quote.

13 How has Al Otro Lado been irreparably
14 harmed by defendants' conduct?

15 MS. WEBSTER: Objection. Calls for a
16 legal conclusion.

17 THE WITNESS: All right. Well, where do
18 I start? I've explained numerous times about
19 diversion of resources and all of what that entails,
20 the specifics of what that entails, how we needed to
21 divert resources toward the border, and how that had
22 concrete effects on both our ability to manage the
23 organization and on our ability to serve extremely
24 vulnerable clients.

25 We've had actually several meter

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1 clients -- I'm sorry, this is a little bit difficult
2 for me to talk about, but two children who,
3 unaccompanied children who were turned away and
4 subsequently murdered in Tijuana. And that
5 was...that was really, really difficult, really
6 difficult thing to deal with.

7 And we've had other clients who were
8 turned away and assaulted, sexually assaulted, some
9 who disappeared.

10 So you know, there's nothing -- there's
11 no donation or anything like that that's going to
12 bring those children back. I don't think that can
13 be repaired.

14 And I can think to a lot of examples like
15 that, but that's really the one that -- those two
16 kids that really stick out in my mind.

17 I can also think of examples of clients
18 in Los Angeles that really faced some really
19 terrible outcomes because we weren't able to do what
20 I think -- you know, what our mission is to do, to
21 help them.

22 I mentioned the baby in a coma. That's a
23 real case. There's others like that that are
24 horrible. I mean, just really the worst -- you
25 can't even believe another person would do that to

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1 another human being. The feeling of powerlessness
2 of not being able to actually help someone, because
3 we're -- it's like an emergency room at the border
4 all the time.

5 It's just like every time, you know, with
6 metering policy and Turnback Policy changes, we have
7 to be so on top of it and dealing with all the stuff
8 that comes up. And it's just like -- diverting of
9 resources, it has those concrete affects and they
10 really stay with you as a practitioner and as an
11 organization when you come into contact with these
12 clients and you feel a responsibility to help them,
13 and you can't.

14 Then there's a terrible outcome. I think
15 that's really, to me, what would be the most
16 egregious injury as a result metering policy.

17 And just, you know, from an -- this
18 isn't -- feels trivial to mention this after talking
19 about the murder and rape and assault of our
20 clients, but from an administrative perspective,
21 it's incredibly challenging to manage programming
22 when constantly having to pull staff to respond to
23 changes in policy and practice that are never
24 announced by the government.

25 It's like practicing law in the dark;

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1 right? So it's just like the other programs just --
2 they suffer because of it. We can't build them in
3 the same way that we otherwise would.

4 You know, we've definitely, just from a
5 lack of capacity, probably like damaged some funder
6 relationships or damaged some other coalition
7 relationships, just from like not being able to
8 respond sometimes because we're dealing with some
9 insane, you know, like murder, rape, or something
10 like that at the border, someone has been metered or
11 turned back.

12 So, yeah, I'd rather not have to do any
13 of those things or see no children who have been
14 murdered brutally, I mean, tortured and murdered,
15 not even talking like shot in the street. I'm
16 talking tortured and murdered and not know those
17 things, or have to have, you know, met and formed a
18 relationship with these clients.

19 There's no going back from that. There's
20 no -- like, there's no way to right these wrongs.

21 MR. HALASKA: I think I'm near or at the
22 end of my questions. Michelle, do you guys think
23 that you're going to do cross?

24 MS. WEBSTER: I don't suspect so. You
25 know, we can take a little break if you need a

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SOUTHERN DISTRICT OF CALIFORNIA

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

19 Plaintiffs,

**EXHIBIT 114 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

20 || V.

21 Chad F. Wolf,¹¹³ *et al.*,
22 Defendants

¹¹³ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

Case 3:17-cv-02366-BAS-KSC Document 535-116 Filed 09/04/20 PageID.48898 Page 2 of 15

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NATIONAL

A Father And Daughter Who Drowned At The Border Put Attention On Immigration

June 26, 2019 · 12:12 PM ET

BILL CHAPPELL



Rosa Ramírez cries as she looks at photos of her son Óscar Alberto Martínez Ramírez, 25, and granddaughter Valeria, nearly 2, while speaking to journalists at her home in San Martín, El Salvador, on Tuesday. The drowned bodies of her son and granddaughter were found Monday morning on the banks of the Rio Grande.

Antonio Valladares/AP

Updated at 3:45 p.m. ET

Editor's note: This story contains images that some readers may find disturbing.

The desperate and tragic plight of a father and daughter who drowned while trying to cross the border from Mexico into the U.S. has become a new flashpoint in the border crisis, after a photographer captured a haunting image that shows the pair lying facedown, washed onto the banks of the Rio Grande.

Óscar Alberto Martínez Ramírez, 25, died as he tried to bring his 23-month-old daughter, Angie Valeria, to safety and a new life in the U.S. Ramírez's wife, Tania Vanessa Ávalos, says she watched from the shore as her husband and daughter were pulled away by a strong river current near the border crossing between Matamoros, Mexico, and Brownsville, Texas.

The small family was fleeing poverty in El Salvador and had secured a humanitarian visa in Mexico — but after spending two months in a migrant camp waiting to apply for asylum in the U.S., Martínez decided that they should try to cross the border on Sunday. Those details all come from the Mexican newspaper *La Jornada*, whose journalist, Julia Le Duc, was at the riverbank as Ávalos spoke to police and emergency workers.

Le Duc also photographed the bodies of Ramírez and his daughter, which were found after Ávalos alerted authorities in Mexico. Le Duc's images show the pair lying along the riverbank, with their feet in the water and their heads on the reeds of dry land. The toddler is tucked into her dad's T-shirt — an apparent attempt to keep her close as the current took them away. Her arm is flung around his neck.



The bodies of Óscar Alberto Martínez Ramírez and his nearly 2-year-old daughter, Valeria, lie on the bank of the Rio Grande in Matamoros, Mexico, where they were found Monday morning. They drowned while trying to cross the river to Brownsville, Texas. This photograph was first published in the Mexican newspaper *La Jornada*.

Julia Le Duc/AP

The shocking and unsettling image has drawn comparisons to other powerful photos, of the death of Aylan Kurdi, the 3-year-old Syrian boy who drowned in 2015 as his family tried to reach sanctuary in Greece, and of Omran Daqneesh, who was 5 when he was wounded in an airstrike in Aleppo.

In the same way those images focused the world's attention on the humanitarian crisis in Syria and Turkey, the intense image from the Rio Grande comes as a stark reminder of the human toll of the immigration crisis. As in those earlier cases, it also shows the devastating effect strife and desperation often inflict on children and families.



GOATS AND SODA

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PARALLELS

That Little Syrian Boy: Here's Who He Was

On the same day Óscar Alberto and Valeria died, U.S. Border Patrol agents found four bodies along the Rio Grande in Texas' Rio Grande Valley, about 55 miles west of Brownsville. In that case, three children — one toddler and two infants — died along with a 20-year-old woman.

In reports about the drowning in Matamoros, some of the details have varied.

According to *La Jornada*, Ávalos said her husband had taken their daughter across the river and was returning to get his wife when he realized the little girl had not stayed on the bank — she was in the water. Valeria had apparently panicked when she saw her father go back across the river without her.

Ávalos said her husband was able to reach the little girl but wasn't able to make it back to the shore. Their bodies were found Monday morning, about 550 yards from where they tried to cross, *La Jornada* reported.

The New York Times, meanwhile, says the family had entered the river together and that Ávalos swam back to the Mexican side, where she watched the water sweep away her husband and daughter. The newspaper cited Ávalos' comments to government officials.

The family had attempted to cross at a relatively narrow section of the river. But as The Associated Press reports, local officials had recently warned that the river poses a perilous threat, especially because it has been coursing with water that was released from dams to supply irrigation projects.

"We are united to pain by this irreparable loss," the Salvadoran president's office said of the tragedy, after Ramirez's cousin asked for the government's help in bringing the bodies back home.

Salvadoran President Nayib Bukele granted the request, telling Foreign Affairs Minister Alexandra Hill to make arrangements and give the family financial support.

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Both the president and Hill also urged Salvadorans not to try to cross the U.S. border without going through legal channels.

"Someday we will finish building a country where these things do not happen," Bukele said. "Someday we will finish building a country where migration is an option and not an obligation. In the meantime, we will do as much as we can. God help us."

In the most recent fiscal year, there were 283 deaths across the U.S. southern border — with nearly 100 of those deaths reported in the Rio Grande Valley, according to the Border Patrol.

Migrants who want to enter the U.S. at legal border crossings often face long waits due to the U.S. Customs and Border Protection policy of "metering," which is meant to manage the flow of migrants by blocking entry if no space is available in CBP's processing facilities.

The U.S. agency says the practice of metering targets health and safety hazards. But in a report on the policy that came out last fall, Homeland Security's inspector general said, "While the stated intentions behind metering may be reasonable, the practice may have unintended consequences."

Citing interviews with Border Patrol officers and supervisors, the inspector general's office said it found "evidence that limiting the volume of asylum-seekers entering at ports of entry leads some aliens who would otherwise seek legal entry into the United States to cross the border illegally."

The Hispanic Caucus of the House of Representatives blamed the Trump administration for the deaths.

"They were driven to cross the river out of desperation — only after they tried to legally seek asylum," the caucus said in a tweet. "They should be safe in the U.S. Instead, they are dead because of Trump's cruel policies."

On Wednesday, Trump blamed current U.S. immigration laws for the deaths. When he was asked how he felt about the photo of the dead father and daughter, the president replied, "I hate it."

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"I know it could stop immediately if the Democrats change the law. They have to change the laws," Trump said, adding, "and then that father, who probably was this wonderful guy, with his daughter — things like that wouldn't happen."

Trump predicted that if asylum rules were changed and a wall were built, migrants wouldn't try to cross the river. Speaking to reporters before he boarded Marine One at the White House, he added that conditions at the border prove he was right to say America has an immigration crisis.

"We have a crisis at the border," Trump said.

Under President Trump's "zero tolerance" policy for illegal immigration, the Department of Homeland Security has been criticized for its treatment of families and children, including the now-revised policy of separating minors from their parents.

Over the weekend, the bleak and unsanitary conditions under which more than 350 children were housed in a Border Patrol station in southwest Texas sparked an outcry, prompting the government to move most of those children to other facilities.

rio grande immigration border patrol

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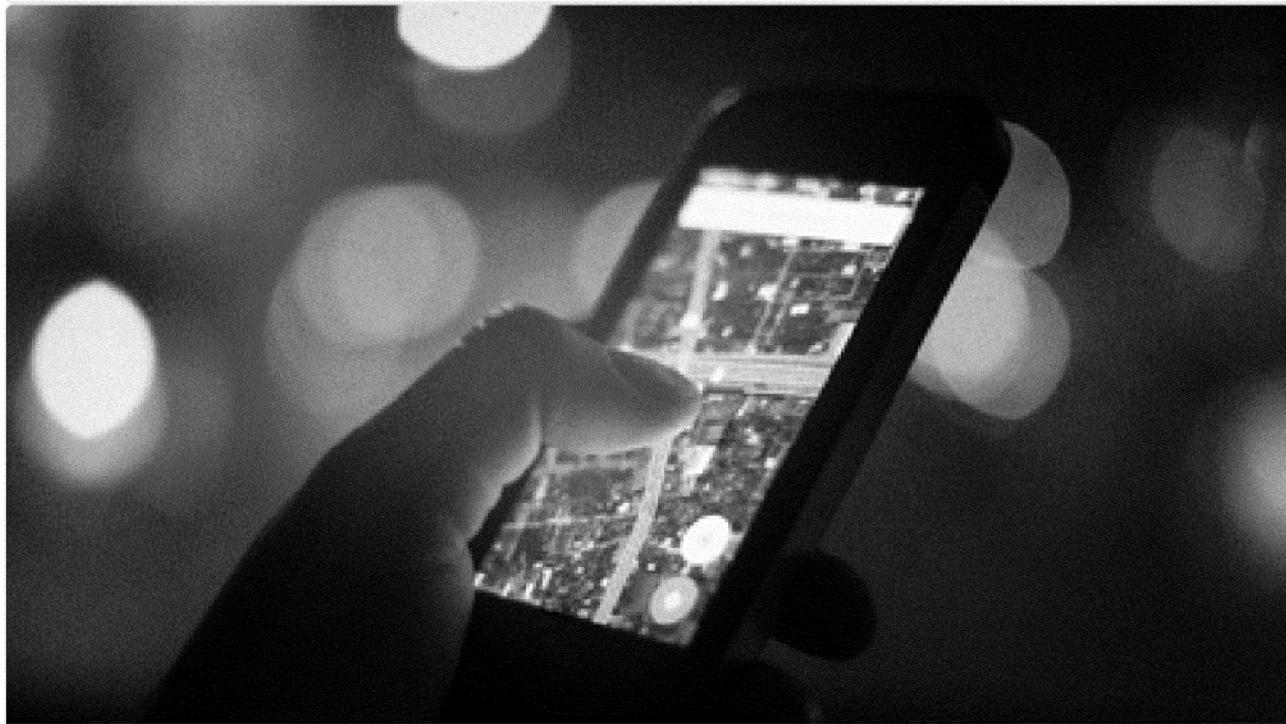
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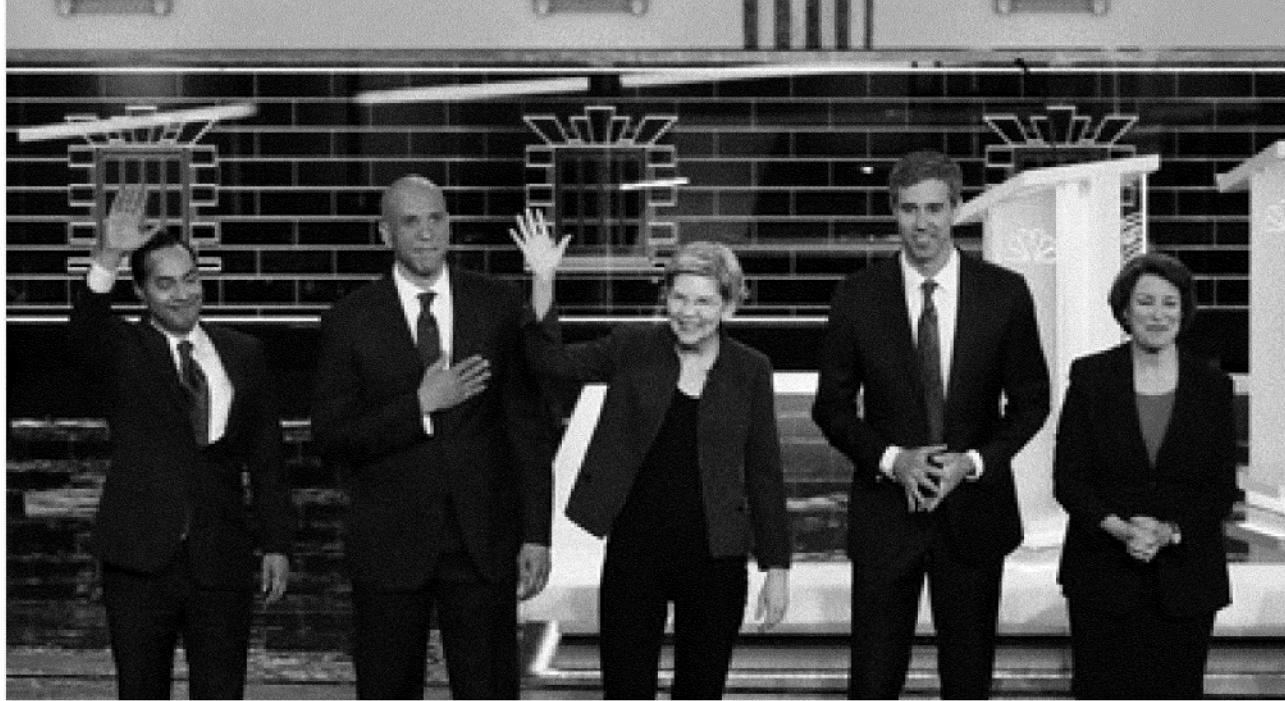
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SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*

Case No.: 17-cv-02366-BAS-KSC

Plaintiffs.

V

Chad F. Wolf¹ *et al.*

**EXHIBIT 115 IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION
FOR SUMMARY JUDGMENT**

Defendants

¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

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26 **SOUTHERN DISTRICT OF CALIFORNIA**

27 Al Otro Lado, Inc., *et al.*,

28 Case No.: 17-cv-02366-BAS-KSC

29 Plaintiffs,

30 v.

31 Chad F. Wolf,¹ *et al.*,

32 Defendants.

33 **PLAINTIFFS' CONSOLIDATED**
34 **ANSWERS AND OBJECTIONS TO**
35 **DEFENDANTS' FIRST SETS OF**
36 **INTERROGATORIES TO ALL**
37 **NAMED PLAINTIFFS**

38 ¹ Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan
39 pursuant to Fed. R. Civ. P. 25(d).

40 PLAINTIFFS' CONSOL. ANSWERS AND OBJS. TO
41 DEFS' FIRST SET OF INTERROGS.

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1 AOL-DEF-00047772-73. Commissioner McAleenan's response to this information
2 was that supposed capacity constraints at port of entry was, at most, "[r]eally just a
3 San Ysidro challenge." *Id.* at 773.

4 ***The Systematic Effect of Defendants' Conduct.*** While the Government lied,
5 migrants died. On June 23, 2019, Óscar Alberto Martínez Ramírez, a native of El
6 Salvador, and his 23-month-old daughter, Valeria, attempted to enter the United
7 States at the Brownsville, Texas port of entry and were turned back by CBP Officers.
8 AOL-DEF-00211139; *see also* Reis Thebault, Luis Velarde, and Abigail
9 Hauslohner, *The Father and Daughter Who Drowned at the Border Were Desperate*
10 *for a Better Life, Family Says*, Washington Post (June 26, 2019). But, on that day,
11 the Brownsville Port of Entry was operating at only 33% capacity. AOL-DEF-
12 00035288. Oscar was desperate to enter the United States. *See* Reis Thebault, Luis
13 Velarde, and Abigail Hauslohner, *The Father and Daughter Who Drowned at the*
14 *Border Were Desperate for a Better Life, Family Says*, Washington Post (June 26,
15 2019). He had sold his motorcycle, borrowed money from family, and travelled over
16 1,000 miles with his daughter from El Salvador to Matamoros, Mexico. *Id.* Now
17 aid workers in Matamoros were advising him that there were hundreds of people in
18 front of him and his daughter in line waiting for their number to be called. *Id.* So,
19 Oscar and his daughter waded into the Rio Grande river near the Brownsville port
20 of entry. *Id.* However, the rapid current of the river pulled them under, drowning
21 both other them. AOL-DEF-00211139. Their bodies washed up along the
22 riverbank. *Id.* Their feet were in the water; their heads were face-down nestled in
23 brown reeds. *Id.* Valeria's hand was wrapped around her father's shoulders. *Id.*

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Pls.' Dep. Ex. 51.

Executive Assistant Commissioner Todd Owen made it clear that CBP takes no responsibility for the deaths of Oscar and Valeria or any other harm caused by the Turnback Policy. As Mr. Owen testified at his deposition:

Q. Do you take any responsibility for what's happened . . . to migrants who are living on the Mexican side of the border due to the metering policy?

A. Do I take --?

Q. Yeah. Do you take any responsibility for that?

A. No.

Owen Dep. at 289:21-290:6. Mr. Owen then specified that he takes no responsibility for children that were forced to sleep outside on the streets of Matamoros in the

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1 summer heat after they were turned back at ports of entry. *Id.* at 291:6-14. He went
2 on to testify:

3 Q. Do you take any responsibility for what occurs to asylum seekers
4 who, when f[aced] with waiting . . . for months in Mexico due to
5 metering decide to cross illegally between ports and are harmed?
6 Do you take any responsibility for that?

7 A. No.

8 *Id.* at 291:15-20. Then, when Mr. Owen realized that he was going to be shown a
9 picture taken of Oscar and Valeria, he became angry, saying “[G]o ahead. Show me
10 the pictures from the river.” *Id.* at 292:1. When asked whether he took any
11 responsibility for the deaths of Oscar and Valeria, Mr. Owen provided a callous,
12 one-word answer: “No.” *Id.* at 292:8-21.

13 It should have been no surprise to Mr. Owen that the Turnback Policy was
14 forcing migrants into dangerous situations. He was told as early as September 2016
15 that Mexican officials believed that a [REDACTED] was unfolding at the
16 border as a result of the Turnback Policy. *See* AOL-DEF-00762746. At his
17 deposition, Mr. Owen denied that he was told about the [REDACTED] caused
18 by metering. Owen Dep. at 73:16-20 (“Q. Were you told that the metering policy
19 created a [REDACTED]? A. [REDACTED]? Q. Yeah. A. No.”).
20 When Mr. Owen was confronted with an email showing that he had, in fact, been
21 told that metering was causing a [REDACTED] the only answer he could
22 muster was “I received this e-mail in 2016, so, yes, I would have read that.” *Id.* at
23 126:18-22.

24 Although not always ending in death, what happened to Oscar and Valeria at
25 the Brownsville port of entry has played out in thousands of interactions at Class A
26 ports of entry along the U.S.-Mexico border. Defendants have made clear that the
27 policy applies to all ports of entry on the U.S.-Mexico border, meaning that any
28 asylum seeker who approaches a POE can be turned back. As former Executive

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29 Al Otro Lado, Inc., *et al.*,

30 Case No.: 17-cv-02366-BAS-KSC

31 Plaintiffs,

32 v.
33 **EXHIBIT 116 IN SUPPORT OF**
34 **PLAINTIFFS' MEMORANDUM OF**
35 **POINTS AND AUTHORITIES IN**
36 **SUPPORT OF THEIR MOTION**
37 **FOR SUMMARY JUDGMENT**

38 Chad F. Wolf,¹¹⁵ *et al.*,

39 Defendants.

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